

Also, petition of L. D. Leach et al., of Goldengate, Ill., in favor of bill H. R. 13378—to the Committee on Interstate and Foreign Commerce.

Also, petition of Albert H. Nobell, of Metropolis, Ill., for increase of pension—to the Committee on Pensions.

Also, papers concerning relief of Mary A. Getting—to the Committee on Invalid Pensions.

Also, papers relative to relief of John Willoughby, Simpton, Ill.—to the Committee on Invalid Pensions.

Also, papers accompanying bill for increase of pension for John Lemley, of Rockport, Ill.—to the Committee on Invalid Pensions.

Also, papers accompanying bill for increase of pension for Marshall M. Angleton—to the Committee on Invalid Pensions.

Also, papers accompanying bill for relief of W. L. Snyder—to the Committee on Pensions.

Also, papers to accompany bill for relief of James J. Sim—to the Committee on Invalid Pensions.

Also, papers to accompany bill increasing pension of William E. Taylor—to the Committee on Invalid Pensions.

Also, papers to accompany special bill for increase of pension of Frederick Shinaman—to the Committee on Invalid Pensions.

Also, papers to accompany bill for increase of pension of James M. Jones—to the Committee on Invalid Pensions.

Also, papers to accompany bill for relief of Abraham Stine—to the Committee on Invalid Pensions.

By Mr. ZENOR: Papers to accompany bill H. R. 9478, for relief of Austin P. Hemphill—to the Committee on Invalid Pensions.

## SENATE.

TUESDAY, January 10, 1905.

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. LODGE, and by unanimous consent, the further reading was dispensed with.

### FINDINGS OF THE COURT OF CLAIMS.

The PRESIDING OFFICER (Mr. PERKINS) laid before the Senate a communication from the chief clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of Albert F. Tucker, Edward M. Tucker, Mary O. Garrison, and Ada A. Case *v.* The United States; which, with the accompanying paper, were referred to the Committee on Claims, and ordered to be printed.

### ELECTORAL VOTES.

The PRESIDING OFFICER laid before the Senate communications from the Secretary of State, transmitting the final ascertainment of the electors for President and Vice-President from the States of Florida and Minnesota; which, with the accompanying papers, were ordered to be filed.

### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the following joint resolutions:

A joint resolution (S. R. 24) authorizing the Secretary of War to receive for instruction at the Military Academy at West Point Luis Bográn H., of Honduras; and

A joint resolution (S. R. 78) authorizing the Secretary of War to receive for instruction at the Military Academy at West Point Frutos Thomás Plaza, of Ecuador.

The message also announced that the House had passed with amendments the following bill and joint resolution; in which it requested the concurrence of the Senate:

An act (S. 3728) to provide for the construction and maintenance of roads, the establishment and maintenance of schools, and the care and support of insane persons in the district of Alaska, and for other purposes; and

A joint resolution (S. R. 84) authorizing the granting of permits to the committee on inaugural ceremonies on the occasion of the inauguration of the President-elect on March 4, 1905, etc.

The message further announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

An act (H. R. 14752) to change the name of the East Washington Heights Traction Railroad Company;

An act (H. R. 15477) to change the name of Thirteenth-and-a-half street to Linworth place;

An act (H. R. 15810) to authorize Caldwell Parish, La., to construct a bridge across the Ouachita River;

An act (H. R. 16450) to authorize certain changes in the permanent system of highways, District of Columbia;

An act (H. R. 16570) to amend an act entitled "An act to authorize the construction of a bridge across the Tennessee River in Marion County, Tenn.," approved May 20, 1902;

An act (H. R. 16582) to authorize the Union Trust and Storage Company to change its corporate name; and

An act (H. R. 16802) to authorize the Commissioners of the District of Columbia to enter into contract for the collection and disposal of garbage, ashes, etc.

The message also announced that the House had passed the concurrent resolution of the Senate providing for the appointment of a joint committee of the two Houses to make the necessary arrangements for the inauguration of the President-elect of the United States on the 4th day of March next.

### PETITIONS AND MEMORIALS.

The PRESIDING OFFICER presented a petition of the New England Sabbath Protective League, praying for the enactment of legislation to prohibit banking in the registry and money-order divisions of post-offices throughout the country; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented petitions of sundry citizens of Newark, N. Y.; St. Louis, Mo.; Atlanta, Ga.; Albion, Mich.; Alexander, N. Y.; Marietta, Ohio; Melvin, Mich.; Stanwood, Mich.; Wichita, Kans.; Cambridge Springs, Pa.; Mt. Vernon, Ill.; Jonesboro, Ark.; Casco, Wis.; Auburn, Ind., and Lansing, Mich., praying for the enactment of legislation to increase the powers of the Interstate Commerce Commission; which were referred to the Committee on Interstate Commerce.

Mr. BATE presented a petition of the Chamber of Commerce of Memphis, Tenn., and a petition of the Bar and Library Association of Memphis, Tenn., praying for the ratification of international arbitration treaties; which were referred to the Committee on Foreign Relations.

Mr. DILLINGHAM presented a petition of the Congregational Christian Endeavor Society of West Brattleboro, Vt., praying for the establishment of an international congress of arbitration; which was referred to the Committee on Foreign Relations.

He also presented petitions of the congregation of the First Baptist Church of Chester, of the congregation of the Methodist Episcopal Church of Sheldon, of the congregation of the Methodist Episcopal Church of Morrisville, of the Woman's Club of St. Johnsbury, and of sundry citizens of Chester Depot, all in the State of Vermont, praying for the adoption of an amendment to the Constitution to prohibit polygamy; which were referred to the Committee on the Judiciary.

He also presented a memorial of sundry citizens of the Indian Territory, remonstrating against the annexation of that Territory to the Territory of Oklahoma; which was ordered to lie on the table.

He also presented the petition of Peter Story and 72 other citizens of Eucha, Ind. T., and the petition of C. Henderson and 75 other citizens of Canadian, Ind. T., praying for the enactment of legislation to prohibit the manufacture and sale of intoxicating liquors in that Territory when admitted to statehood; which were ordered to lie on the table.

Mr. CLAPP presented the petition of George D. Haggard and sundry other citizens of Minneapolis, Minn., praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which was referred to the Committee on Interstate Commerce.

He also presented a petition of Oriental Subdivision, No. 369, Brotherhood of Locomotive Engineers, of St. Paul, Minn., praying for the enactment of legislation to prohibit the employment of any man as a locomotive engineer who has not had at least three years' experience as a locomotive fireman; which was referred to the Committee on Interstate Commerce.

He also presented petitions of Reuben L. Wagner, of East Chain Lakes; of C. C. Wahner, of East Chain Lakes; of Stanley B. Roberts, of Minneapolis; of Brooks Hitchings, of Lanesboro; of Walter N. Conley, of Minneapolis; of Edward H. Moore, of St. Paul; of the congregation of the Plymouth Church of Minneapolis, and of the Presbyterian Ministers' Association of Minneapolis, all in the State of Minnesota, praying for the enactment of legislation providing for the protection of the Indians against the liquor traffic in the new States to be formed; which were ordered to lie on the table.

He also presented a petition of the Woman's Christian Temperance Union of Maine Prairie, Minn., and a petition of sundry citizens of Moorhead, Minn., praying for the adoption of a certain amendment to the suffrage clause in the statehood bill; which were ordered to lie on the table.

He also presented petitions of sundry citizens of Minneapolis

and Monticello, of the Common Council of Duluth, and of the Commercial Club, of Duluth, all in the State of Minnesota, praying for the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which were referred to the Committee on Interstate Commerce.

Mr. GAMBLE presented a memorial of the Bar Association of Arizona, remonstrating against the admission of the Territories of Arizona and New Mexico into the Union as one State; which was ordered to lie on the table.

He also presented a memorial of Local Union No. 288, Cigar Makers' International Union, of Brookings, S. Dak., remonstrating against the proposed reduction of tariff duties on cigars and tobacco imported from the Philippine Islands; which was referred to the Committee on Finance.

Mr. GALLINGER presented memorials of sundry citizens of Conewango Valley, Rome, Oxford, Norwich, Lakeville, Canandaigua, and Livonia, all in the State of New York; of sundry citizens of Castilla, N. Mex.: Independence and Wichita, Kans.; Manzanares, Colo.; Denver, Colo.; Allandale, Canton, and Duquoin, in the State of Illinois, and of sundry citizens of Clarinda and Dubuque, in the State of Iowa, remonstrating against the enactment of legislation requiring certain places of business in the District of Columbia to be closed on Sunday; which were referred to the Committee on the District of Columbia.

Mr. PLATT of New York presented a petition of the Woman's Christian Temperance Union of Patchogue, N. Y., and a petition of the congregation of the Methodist Episcopal Church of Orwell, N. Y., praying for the adoption of a certain amendment to the suffrage clause in the statehood bill; which were ordered to lie on the table.

He also presented petitions of the Woman's Christian Temperance Union of Hamilton, of the Woman's Christian Temperance Union of Sherwood; of the Woman's Christian Temperance Union of Reed Corners, of the congregation of the Baptist Church of Reed Corners, and of the Scipio Quarterly Meeting of Friends' Church of Poplar Ridge, all in the State of New York, praying for the enactment of legislation providing for the protection of Indians against the liquor traffic in new States to be formed; which were ordered to lie on the table.

He also presented petitions of the congregation of the Puffer Methodist Episcopal Church, of Morrisville; of the congregation of the Methodist Episcopal Church of Waitsfield, and of sundry citizens of Lyndon, all in the State of Vermont, praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

He also presented a petition of the Merchants' Association of New York City, N. Y., praying for the enactment of legislation providing for a reduction of the tariff on products imported from the Philippine Islands; which was referred to the Committee on Finance.

He also presented a petition of the Merchants' Association of New York City, N. Y., praying for the enactment of legislation to regulate the towing of vessels in the harbor of New York; which was referred to the Committee on Commerce.

He also presented a petition of the congregations of the Presbyterian, United Presbyterian, Methodist Episcopal, St. Patrick's Catholic, and Congregational churches, of Cambridge, N. Y., and a petition of the congregation of the Reformed Church of Brooklyn, N. Y., praying for the adoption of an amendment to the Constitution to prohibit polygamy; which were referred to the Committee on the Judiciary.

He also presented a memorial of Cigar Makers' Local Union No. 311, American Federation of Labor, of Auburn, N. Y., and the memorial of John Scherer, of New York City, N. Y., remonstrating against any reduction of the tariff on tobacco and cigars imported from the Philippine Islands; which were referred to the Committee on Finance.

Mr. PENROSE presented a petition of the Oakland Board of Trade, of Pittsburg, Pa., praying for the enactment of legislation providing for the improvement of the Monongahela and Ohio rivers, and for a channel of not less than nine feet in depth from Pittsburg to the junction from the Ohio to the Mississippi; which was referred to the Committee on Commerce.

He also presented petitions of Washington Camp, No. 549, of Blandburg; of sundry citizens of Tremont; of Local Union No. 247, Patriotic Order Sons of America, of Landingville; and of sundry citizens of Crystal Springs and Hazen, all in the State of Pennsylvania, praying for the enactment of legislation providing more stringent laws and regulations governing immigration; which were referred to the Committee on Immigration.

Mr. DEPEW presented a petition of the Board of Marine Underwriters of New York City, N. Y., praying for the enactment of legislation providing for the regulation of the towing

of vessels in the Harbor of New York; which was referred to the Committee on Commerce.

He also presented a petition of the Chamber of Commerce of New York City, praying for the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Chamber of Commerce of Buffalo, N. Y., and a petition of the Board of Directors of the Merchants' Association of New York, praying for the ratification of international arbitration treaties; which were referred to the Committee on Foreign Relations.

Mr. HANSBROUGH presented a petition of sundry citizens of Grafton, Fargo, Velva, Grand Forks, Carrington, Wheatland, Hensel, and Hannah, all in the State of North Dakota, praying for the enactment of legislation to amend the laws relating to patents on medicinal substances; which was referred to the Committee on Patents.

He also presented a memorial of sundry citizens of Walsh County, N. Dak., remonstrating against the repeal of the duty on wheat imported from Canada; which was referred to the Committee on Finance.

Mr. DANIEL presented the petitions of H. S. Lacy and sundry other citizens of Portsmouth, Va.; of John N. Webb and sundry other citizens of Portsmouth, Va.; of Anna Bengeson and sundry other citizens of Norfolk, Va.; of Clara Louise Whiddell and sundry other citizens of Norfolk, Va., and of N. T. Pendleton and sundry other citizens of Norfolk, Va., praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah.

Mr. DANIEL. Mr. President, I wish to say just a word concerning these petitions. They concern the right of a Senator in this body to a seat—that is, the junior Senator from Utah, about whom there is a contention now prevailing before the Committee on Privileges and Elections. There is nothing known to the Senate which makes it appropriate for any Senator to form or pass any opinion upon that subject, and I am unable to understand how any of the people have been able themselves to pass upon the subject without a knowledge of what may be the testimony in the case. I have consented to present the petitions simply from my view that the people have a right to send them here, though I do not recognize any propriety in their being sent here.

The PRESIDING OFFICER. The petitions will be referred to the Committee on Privileges and Elections.

#### REPORTS OF COMMITTEES.

Mr. SMOOT, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 4897) granting an increase of pension to Reuben Allred; and

A bill (S. 4121) granting an increase of pension to James D. Beasley.

Mr. SMOOT, from the Committee on Pensions, to whom was referred the bill (S. 5568) granting an increase of pension to Flora B. Bonham, reported it with amendments, and submitted a report thereon.

Mr. BURNHAM, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 5939) granting an increase of pension to George W. Hall;

A bill (S. 5868) granting an increase of pension to Mary C. Buck;

A bill (S. 5938) granting an increase of pension to Owen A. Willey;

A bill (S. 5940) granting an increase of pension to Jason R. C. Hoyt;

A bill (S. 5757) granting an increase of pension to William A. Luther;

A bill (S. 5712) granting an increase of pension to Sally Dickinson;

A bill (S. 6321) granting a pension to Hattie F. Davis;

A bill (S. 6092) granting an increase of pension to Elijah W. Gordon;

A bill (S. 6091) granting an increase of pension to William Welch; and

A bill (S. 184) granting an increase of pension to John Bartlett.

Mr. BURNHAM, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted a report thereon:

A bill (S. 355) granting a pension to Sarah Jane Simonds;

A bill (S. 4239) granting an increase of pension to William H. McCann;



A bill (S. 6130) granting an increase of pension to Charles L. Harmon;

A bill (S. 5426) granting a pension to Henry O. Kent;

A bill (S. 5961) granting an increase of pension to Warren P. Tenney;

A bill (S. 5958) granting an increase of pension Mary J. Bartlett;

A bill (S. 5842) granting an increase of pension to Thomas G. Parish;

A bill (S. 6004) granting an increase of pension to James Hulme; and

A bill (S. 5841) granting an increase of pension to Nelson P. Smith.

Mr. BURNHAM, from the Committee on Pensions, to whom was referred the bill (S. 6094) granting an increase of pension to Ephraim W. Harrington, reported it with amendments, and submitted a report thereon.

Mr. GIBSON, from the Committee on Pensions, to whom was referred the bill (S. 5975) granting an increase of pension to Lucy Lytton, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 5678) granting a pension to Margaret McKee Pentland; and

A bill (S. 6116) granting an increase of pension to Francis M. Sams.

Mr. GIBSON, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 5947) granting an increase of pension to Florence O. Whitman;

A bill (S. 1420) granting an increase of pension to Gustavus S. Young;

A bill (S. 4888) granting an increase of pension to Pierpont H. B. Moulton;

A bill (S. 2707) granting an increase of pension to James M. Clemens; and

A bill (S. 4075) granting an increase of pension to Charles M. Shepherd.

Mr. BALL, from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 5509) granting an increase of pension to Susie G. Seabury; and

A bill (S. 4760) granting an increase of pension to Ezekiel Riggs.

Mr. BALL, from the Committee on Pensions, to whom was referred the bill (S. 5527) granting an increase of pension to John A. Kingman, reported it without amendment, and submitted a report thereon.

Mr. ALGER, from the Committee on Pensions, to whom was referred the bill (S. 5727) granting an increase of pension to Jesse Woodruff, reported it with an amendment, and submitted a report thereon.

Mr. McCUMBER, from the Committee on Pensions, to whom was referred the bill (S. 5995) granting an increase of pension to Emma A. Porch, submitted an adverse report thereon; which was agreed to, and the bill was postponed indefinitely.

He also, from the same committee, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 6194) granting an increase of pension to William S. Moorhouse;

A bill (S. 5856) granting an increase of pension to William V. Morrison;

A bill (S. 2572) granting an increase of pension to Thomas J. Lucas;

A bill (S. 5540) granting an increase of pension to Jerome Bradley;

A bill (S. 141) granting an increase of pension to James W. Kinkad;

A bill (S. 5943) granting an increase of pension to Jared Prindle;

A bill (S. 2074) granting an increase of pension to James A. Harper;

A bill (S. 5698) granting an increase of pension to Martin Schubert; and

A bill (S. 1794) granting an increase of pension to Joseph C. Walkinshaw.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 6192) granting an increase of pension to James McGinnis;

A bill (S. 6195) granting an increase of pension to Frederick Feigley;

A bill (S. 6085) granting an increase of pension to Leonard Delamater;

A bill (S. 6191) granting an increase of pension to Charles R. Van Norman;

A bill (S. 6196) granting an increase of pension to William C. Dickinson;

A bill (S. 4159) granting an increase of pension to George W. Gray;

A bill (S. 3939) granting an increase of pension to James Miller; and

A bill (S. 4691) granting an increase of pension to Leonard L. Lancaster.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 6193) granting an increase of pension to Jacob O. White;

A bill (S. 5670) granting an increase of pension to James William Stickley;

A bill (S. 5953) granting an increase of pension to Charles P. Thurston;

A bill (S. 5451) granting an increase of pension to George W. Benedict;

A bill (S. 5941) granting an increase of pension to Alma Yohum;

A bill (S. 3635) granting a pension to John M. Godown;

A bill (S. 4135) granting an increase of pension to Jane Francis; and

A bill (S. 2419) granting an increase of pension to Jane M. Black.

Mr. McCUMBER (for Mr. PATTERSON), from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 5550) granting an increase of pension to Martin Mack;

A bill (S. 825) granting an increase of pension to Jesse Collins;

A bill (S. 830) granting an increase of pension to Thomas H. Muchmore; and

A bill (S. 69) granting an increase of pension to Frances C. Brown.

Mr. McCUMBER (for Mr. PATTERSON), from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 104) granting an increase of pension to Abner Taylor;

A bill (S. 5432) granting an increase of pension to Elias Stilwell;

A bill (S. 3074) granting an increase of pension to Isaac Davisson;

A bill (S. 826) granting an increase of pension to John C. Bertollette; and

A bill (S. 5802) granting an increase of pension to Luther M. Bartlow.

Mr. McCUMBER (for Mr. FOSTER of Washington), from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 5812) granting an increase of pension to William T. Graham;

A bill (S. 5808) granting an increase of pension to William Steele; and

A bill (S. 6268) granting an increase of pension to Adria M. S. Moale.

Mr. McCUMBER (for Mr. FOSTER of Washington), from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 5892) granting an increase of pension to James McAuliff;

A bill (S. 5809) granting an increase of pension to Cyrus Wetherell; and

A bill (S. 5815) granting an increase of pension to James McKim.

Mr. McCUMBER (for Mr. FOSTER of Washington), from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 6074) granting an increase of pension to William Smith; and

A bill (S. 6152) granting an increase of pension to Annie E. Wilson.

Mr. McCUMBER (for Mr. CARMACK), from the Committee

on Pensions, to whom was referred the bill (S. 5766) granting an increase of pension to Andrew S. Graham, reported it with an amendment, and submitted a report thereon.

He also (for Mr. CARMACK), from the same committee, to whom was referred the bill (S. 4823) granting an increase of pension to Mary Martin, reported it with amendments, and submitted a report thereon.

Mr. CLAPP, from the Committee on Claims, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 5209) for the relief of Edward H. Ozmun; and

A bill (S. 5337) for the relief of Jacob Lyon.

Mr. BERRY, from the Committee on Commerce, to whom was referred the bill (S. 6261) permitting the building of a railroad bridge across the Mississippi River at the city of Minneapolis, State of Minnesota, from a point on lot 2 to a point on lot 7, all in section 3, township 29 north, range 24 west of the fourth principal meridian, reported it without amendment, and submitted a report thereon.

Mr. BALL, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 5341) granting a pension to Jennie Petteys;

A bill (H. R. 14774) granting an increase of pension to Albert S. Graham;

A bill (H. R. 14879) granting an increase of pension to Benjamin Dillingham;

A bill (H. R. 14875) granting an increase of pension to Seeley Earnest;

A bill (H. R. 15207) granting an increase of pension to Amos Jones;

A bill (H. R. 15634) granting a pension to Harriet A. Orr;

A bill (H. R. 15473) granting an increase of pension to James W. Capron;

A bill (H. R. 8996) granting an increase of pension to Diah Lovejoy;

A bill (H. R. 15387) granting an increase of pension to William Hall; and

A bill (H. R. 13064) granting an increase of pension to John K. Tyler.

Mr. CULLOM. I am directed by the Committee on Appropriations, to whom was referred the bill (H. R. 15895) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1906, and for other purposes, to report it with sundry amendments, and I submit a brief report. I wish to state that I shall desire to call up the bill for consideration at the first opportunity.

The PRESIDING OFFICER. The bill will be placed on the Calendar.

#### BILLS INTRODUCED.

Mr. GALLINGER introduced a bill (S. 6424) to amend the code of law for the District of Columbia, and providing for the appointment of probation officers; which was read twice by its title, and, with the accompanying paper, referred to the Committee on the District of Columbia.

Mr. PLATT of New York introduced a bill (S. 6425) to amend section 4472 of the Revised Statutes, so as to remove certain restrictions upon the transportation by steam vessels of gasoline and other products of petroleum when carried by motor vehicles (commonly known as automobiles) using the same as a source of motive power; which was read twice by its title, and referred to the Committee on Commerce.

He also introduced a bill (S. 6426) to correct the military record of Brig. Gen. William Hull; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Military Affairs.

Mr. PENROSE introduced a bill (S. 6427) to correct the military record of Jonathan Williams; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced a bill (S. 6428) for the relief of the legal representatives of George Chorpenning, deceased; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 6429) for the relief of the States of New York, Pennsylvania, and Delaware for expenditures made during the war of 1812 to 1815 with Great Britain; which was read twice by its title, and referred to the Committee on Claims.

He also introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 6430) granting a pension to Eliza H. Whittier (with accompanying papers);

A bill (S. 6431) granting a pension to Jesse Peters (with accompanying papers);

A bill (S. 6432) granting an increase of pension to James Campbell;

A bill (S. 6433) granting an increase of pension to George H. Brusstar (with accompanying papers); and

A bill (S. 6434) granting an increase of pension to Richard H. Lee (with accompanying papers).

Mr. PENROSE introduced a bill (S. 6435) to provide for the performance, temporarily, of the duties of appraisers and assistant appraisers of merchandise; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Finance.

He also introduced a bill (S. 6436) to amend section 4045 of the Revised Statutes; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

He also introduced a bill (S. 6437) to increase the efficiency of the United States Navy by building cruisers and torpedo boats after the design of Richard B. Painton; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. McCUMBER introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 6438) granting a pension to Cyrell Boutiette;

A bill (S. 6439) granting an increase of pension to Thomas Conroy;

A bill (S. 6440) granting an increase of pension to John F. Wallace;

A bill (S. 6441) granting an increase of pension to John Seby;

A bill (S. 6442) granting an increase of pension to William Southwick;

A bill (S. 6443) granting an increase of pension to Terence J. Tully;

A bill (S. 6444) granting an increase of pension to Melkert H. Burton;

A bill (by request) (S. 6445) granting an increase of pension to Lizzie A. Holden; and

A bill (S. 6446) granting an increase of pension to John McGowan.

Mr. LODGE introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 6447) granting an increase of pension to Mary A. Foster;

A bill (S. 6448) granting an increase of pension to Dexter E. W. Stone (with an accompanying paper); and

A bill (S. 6449) granting a pension to Ellen J. Tuttle (with an accompanying paper).

Mr. GAMBLE introduced a bill (S. 6450) to amend an act entitled "An act authorizing the Winnipeg, Yankton and Gulf Railroad Company to construct a combined railroad, wagon, and foot-passenger bridge across the Missouri River at or near the city of Yankton, S. Dak.," which was read twice by its title, and referred to the Committee on Commerce.

Mr. FORAKER introduced a bill (S. 6451) to provide an American register for the steam lighter *Pioneer*; which was read twice by its title, and referred to the Committee on Commerce.

He also introduced a bill (S. 6452) for the relief of Isalah Heylin McDonald; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Military Affairs.

Mr. PROCTOR introduced a bill (S. 6453) granting an increase of pension to Nathaniel C. Sawyer; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. McENERY introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Claims:

A bill (S. 6454) for the relief of the estate of George N. Dyson, deceased;

A bill (S. 6455) for the relief of the estate of Francois Dornemon, deceased;

A bill (S. 6456) for the relief of the estate of Hiram Anderson, deceased;

A bill (S. 6457) for the relief of the estate of William Burgess, deceased;

A bill (S. 6458) for the relief of G. S. Cheves;

A bill (S. 6459) for the relief of the heirs of Julia M. Clark, deceased;

A bill (S. 6460) for the relief of the estate of C. E. Booty, deceased;

A bill (S. 6461) for the relief of the estate of Isaac Bloom, deceased;

A bill (S. 6462) for the relief of Arvillien Broussard;



A bill (S. 6463) for the relief of the estate of Jean Crouchet, deceased;

A bill (S. 6464) for the relief of John Baptiste Cheppert; and  
A bill (S. 6465) for the relief of Sylvester Chevalier.

Mr. CULBERSON introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 6466) granting an increase of pension to John W. Kennedy;

A bill (S. 6467) granting an increase of pension to Jonathan Story; and

A bill (S. 6468) granting an increase of pension to William C. Montgomery.

Mr. KEAN introduced a bill (S. 6469) granting an increase of pension to Antonia T. E. White; which was read twice by its title, and referred to the Committee on Pensions.

Mr. MARTIN introduced a bill (S. 6470) for the relief of James Downs; which was read twice by its title, and referred to the Committee on Claims.

Mr. ANKENY (for Mr. FOSTER of Washington) introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 6471) granting an increase of pension to Frances H. Scott;

A bill (S. 6472) granting an increase of pension to Samuel Hice; and

A bill (S. 6473) granting an increase of pension to John A. J. Taylor.

Mr. ANKENY introduced a bill (S. 6474) validating certain conveyances of the Northern Pacific Railroad Company and the Northern Pacific Railway Company; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. PLATT of Connecticut (for Mr. HAWLEY) introduced a bill (S. 6475) granting an increase of pension to Isaac Slater; which was read twice by its title, and referred to the Committee on Pensions.

Mr. DEPEW introduced a bill (S. 6476) granting an increase of pension to Gertrude L. Tallman; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 6477) granting an increase of pension to Alice S. Shepard; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CLAY introduced a bill (S. 6478) for the relief of Mrs. Louise E. O'Connor, executrix of the estate of Mrs. Mary O'Connor, deceased; which was read twice by its title, and referred to the Committee on Claims.

Mr. WARREN (by request) introduced a bill (S. 6479) to give the United States Marine Corps the same pay as the Ordnance and Engineer Corps of the United States Army receive; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. BURNHAM introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 6480) granting an increase of pension to Charles W. Paige;

A bill (S. 6481) granting an increase of pension to Francis E. Stevens; and

A bill (S. 6482) granting an increase of pension to George L. Wakefield.

Mr. McCOMAS introduced a bill (S. 6483) for the relief of Elias E. Barnes; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 6484) granting an increase of pension to Ellen Scott; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CLAPP introduced a bill (S. 6485) granting a pension to Margaret S. Sturges; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 6486) for the relief of Samuel J. Brown and Susan F. Brown; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. DANIEL (by request) introduced a bill (S. 6487) for the relief of the heirs of the late Wilmoth Links; which was read twice by its title, and referred to the Committee on Claims.

Mr. COCKRELL introduced a bill (S. 6488) to authorize the restoration of the name of Charles B. Kerney, late a captain, Porto Rico Provisional Regiment of Infantry, to the rolls of the Army, and providing that he be placed on the list of retired officers; which was read twice by its title.

Mr. COCKRELL. To accompany the bill I present the petition of Charles B. Kerney, praying for restoration to the rolls of the Army. I move that the bill and accompanying petition be referred to the Committee on Military Affairs.

The motion was agreed to.

Mr. FRYE introduced a bill (S. 6489) to amend section 9 of the act of August 2, 1882, concerning lists of passengers; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Commerce.

Mr. PERKINS introduced a bill (S. 6490) to exclude from the Yosemite National Park, California, certain lands therein described, and to attach and include the said lands in the Sierra Forest Reserve; which was read twice by its title, and referred to the Committee on Public Lands.

#### AMENDMENT TO INDIAN APPROPRIATION BILL.

Mr. GAMBLE submitted an amendment proposing to appropriate \$30,000 to increase the capacity of Hope School at Springfield, S. Dak., intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

#### AMENDMENTS TO STATEHOOD BILL.

Mr. DUBOIS. I submit sundry amendments to the pending statehood bill, House bill 14749. The amendments are similar, and I ask that one of them may be read.

The PRESIDING OFFICER. One of the proposed amendments will be read.

The Secretary read as follows:

Page 6, after line 17, insert:

"Sixth. Congress reserves to itself the right to legislate on the subject of polygamy and polygamous cohabitation within said State; but the legislature of the State shall have the right to enact legislation in respect thereof which shall be effective unless and until Congress shall legislate in respect thereto."

The PRESIDING OFFICER. The proposed amendments will be printed and lie on the table.

#### REGULATION AND SUPERVISION OF INSURANCE.

Mr. CLAPP submitted an amendment intended to be proposed by him to the bill (H. R. 16274) providing for the regulation and supervision of insurance; which was ordered to lie on the table and be printed.

#### REPORT OF COMMISSIONER-GENERAL OF IMMIGRATION.

Mr. DILLINGHAM submitted the following concurrent resolution; which was referred to the Committee on Printing:

*Resolved by the Senate (the House of Representatives concurring),* That there be printed in paper covers, at the Government Printing Office, 5,500 additional copies of the annual report of the Commissioner-General of Immigration for the year ending June 30, 1904, with illustrations, of which 1,000 shall be for the use of the Senate and 2,000 for the use of the House of Representatives and the remaining 2,500 copies shall be delivered to the Bureau of Immigration for distribution.

#### PUBLIC BUILDING AT RAWLINS, WYO.

Mr. WARREN. I ask unanimous consent to call up the bill (S. 144) to provide for the purchase of a site and the erection of a public building thereon at Rawlins, in the State of Wyoming.

The Secretary read the bill, and, there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It directs the Secretary of the Treasury to acquire, by purchase, condemnation, or otherwise, a site and cause to be erected thereon a suitable building, including fireproof vaults, heating and ventilating apparatus, and approaches, for the use and accommodation of the United States post-office, court, and other Government offices in the city of Rawlins and State of Wyoming, the cost of site and building, including vaults, heating and ventilating apparatus, and approaches, complete, not to exceed \$100,000.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### BONDS OF POSTMASTERS, POST-OFFICE CLERKS, ETC.

Mr. KEAN. Let the Calendar be proceeded with.

Mr. ALLISON. Yes, let us have the regular order.

The PRESIDING OFFICER. The regular order is the consideration of the Calendar under Rule VIII.

The bill (S. 3379) to amend section 66 of the act of June 8, 1872, entitled "An act to revise, consolidate, and amend the statutes relating to the Post-Office Department" was announced as first in order on the Calendar, and the Senate, as in Committee of the Whole, proceeded to its consideration. It provides that whenever any of the sureties of postmasters, clerks, or other persons in the postal service, employed in the Post-Office Department or elsewhere, notify the Postmaster-General of the desire to be released from their suretyship, or when the Postmaster-General deems a new bond necessary or expedient, he may require said person to execute such new bond with surety. When accepted by the Postmaster-General the new bond shall be as valid as the bond already given by such person; and the sureties of postmasters in the prior bond shall be released from responsibility for all acts or defaults of the postmaster which

may be done or committed subsequent to the last day of the quarter in which such new bond shall be executed and accepted, and the sureties of other persons in the prior bond shall be released from responsibility for all acts or defaults of such persons which may be done or committed subsequent to the day such new bond becomes operative. The Postmaster-General may authorize the cancellation of bonds of post-office clerks upon recommendation of the postmaster that bonds are no longer necessary.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### LANDS IN INDIAN TERRITORY.

The bill (S. 2051) to authorize the purchase of lands in the Indian Territory under certain conditions was announced as next in order.

Mr. LODGE. That bill was reported adversely.

Mr. KEAN. There is an adverse report in that case.

The PRESIDING OFFICER. The bill having been reported adversely from the Committee on Indian Affairs, it will be indefinitely postponed, unless objection be made. Such will be taken as the order of the Senate in the absence of objection. It is so ordered.

#### MUTUAL INVESTMENT FIRE INSURANCE COMPANY.

The bill (H. R. 2871) to incorporate the Mutual Investment Fire Insurance Company of the District of Columbia was considered as in Committee of the Whole.

The Secretary read the bill.

Mr. ALLISON. I observe that no power of amendment or repeal is provided for in the bill. I move to add as an additional section the following:

SEC. —. That the right to alter, amend, or repeal this act is hereby reserved.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

#### DELEGATE FROM ALASKA.

The bill (S. 3339) providing for the election of a Delegate to the House of Representatives from the district of Alaska was announced as next in order.

Mr. PLATT of Connecticut. Mr. President, we can not dispose of that bill under the five-minute rule. Let it go over without prejudice.

The PRESIDING OFFICER. The bill will go over without prejudice.

#### LEGAL REPRESENTATIVES OF WARREN MITCHELL.

The bill (H. R. 1700) for the relief of the legal representatives of Warren Mitchell, deceased, was announced as next in order.

Mr. KEAN. Let that bill go over, Mr. President.

The PRESIDING OFFICER. Objection being made, the bill will go over without prejudice.

#### RAMON O. WILLIAMS AND JOSEPH A. SPRINGER.

The bill (S. 747) for the relief of Ramon O. Williams and Joseph A. Springer was announced as next in order.

Mr. WARREN. Mr. President, I am instructed by the Committee on Claims, to whom was referred the bill (H. R. 2052) for the relief of Ramon O. Williams and Joseph A. Springer, to report it favorably. I wish this House bill to be substituted for the Senate bill which has been announced as in order before the Senate.

The PRESIDING OFFICER. The Senator from Wyoming asks unanimous consent that the bill which has just been reported by him may be substituted for the Senate bill just reached on the Calendar.

Mr. WARREN. To take the place of the Senate bill now on the Calendar.

The PRESIDING OFFICER. So the Chair understands. Is there objection to the present consideration of the bill just reported by the Senator from Wyoming?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. PLATT of Connecticut. Is it necessary to put into a bill the history of the case?

Mr. WARREN. I do not consider it necessary, but as this is a House measure, I thought it better to report it as it had passed the House.

Mr. PLATT of Connecticut. I am not going to make a formal objection to the bill on that account or to offer a formal amend-

ment, but it is a very bad practice in the passage of bills to include the history of the case, giving the reasons for the passage.

Mr. WARREN. I agree with the Senator.

Mr. GALLINGER. That ought to be in the report of the committee.

Mr. PLATT of Connecticut. Of course, it is entirely proper to be in the report accompanying the bill, but I really think we ought not to engage in this method of passing legislation.

The PRESIDING OFFICER. The bill is before the Senate as in Committee of the Whole and open to amendment.

Mr. PLATT of Connecticut. I will inquire of the Senator from Wyoming if he thinks it would imperil the passage of the bill in case we should strike out the clause to which I have referred? Would there not be a concurrence by the House without any particular difficulty?

Mr. COCKRELL. There would be no trouble at all about the other House agreeing to such an amendment as that.

Mr. WARREN. I shall not resist an amendment of that kind. I wish to say, however, that I assume the Committee on Claims of the other House finds itself in very much the same difficulty that the Committee on Claims of the Senate does, that unless a bill contains on its face substantially its history it very seldom gets far enough along before the Senate to be read, a report being almost never read until a bill is called up for final disposition; but I do think the practice of passing bills in that history form is bad. Of course I will accept an amendment such as the Senator proposes.

Mr. PLATT of Connecticut. I will move an amendment, after the word "cents," in line 15, to strike out to and including the word "Congress," at the end of the bill.

The PRESIDING OFFICER. The amendment proposed by the Senator from Connecticut will be stated.

Mr. FORAKER. Before that is done I should like to inquire whether there is a report accompanying this bill which will show what the claim is made for? If not, it ought to appear in the bill.

Mr. WARREN. Oh, yes; that is all set out fully in the report.

Mr. FORAKER. I thought, perhaps, the facts might not be stated in the report, and therefore they ought to appear somewhere.

Mr. WARREN. The facts appear in the report.

The PRESIDING OFFICER. The amendment proposed by the Senator from Connecticut [Mr. PLATT] will be stated.

The SECRETARY. After the word "cents," in line 15, page 1, it is proposed to strike out:

Both amounts as shown on the records of the State Department and as recommended for payment by the State Department to the Fifty-fifth and Fifty-sixth Congresses, and reported to the House and passed by the Senate in the Fifty-seventh Congress.

So as to make the bill read:

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Ramon O. Williams, late consul-general at Habana, the amounts necessarily expended by him for clerk hire in excess of his allowances between July 1, 1892, and June 5, 1896, \$2,222.08; and to Joseph A. Springer, late vice-consul-general at Habana, the amounts necessarily expended by him for clerk hire in excess of his allowances between October, 1892, and June 30, 1895, \$200.54.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The PRESIDING OFFICER. Senate bill 747 on the same subject will be indefinitely postponed in the absence of objection.

#### INAUGURAL CEREMONIES.

Mr. GALLINGER. Mr. President, there is a joint resolution from the House of Representatives on the table containing some amendments, which I should like to have laid before the Senate.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the joint resolution (S. R. 84) authorizing the granting of permits to the committee on inaugural ceremonies on the occasion of the inauguration of the President-elect on March 4, 1905, etc., which were, on page 1, line 10, after "use," to insert: "including all necessary safeguards against fire and for the extinguishing of fire;" on page 5, line 23, to strike out "twenty-eighth" and insert "twenty-fourth;" and on page 6, line 16, after "use," to insert: "And provided further, That the said inaugural committee shall give bond, with security satisfactory to the Secretary of War, to do the same."



Mr. GALLINGER. I move that the Senate concur in the amendments of the House of Representatives.

The motion was agreed to.

#### FUR-SEAL FISHERIES CLAIMS.

Mr. FULTON. Mr. President, Senate bill 3410 was called up the other day, read, and laid aside without prejudice. I ask unanimous consent that it may be now considered.

The PRESIDING OFFICER. The Senator from Oregon asks unanimous consent for the present consideration of a bill, the title of which will be stated.

The SECRETARY. A bill (S. 3410) to extend to citizens of the United States who were owners, charterers, masters, officers, and crews of certain vessels registered under the laws of the United States, and to citizens of the United States whose claims were rejected because of the American citizenship of the claimants, or of one or more of the owners, by the international commission appointed pursuant to the convention of February 8, 1896, between the United States and Great Britain, the relief heretofore granted to and received by British subjects in respect of damages for unlawful seizures of vessels or cargoes, or both, or for damming interference with the vessels or the voyages of vessels engaged in sealing beyond the 3-mile limit, and beyond the jurisdiction of the United States, in accordance with the judgment of the fur-seal arbitration at Paris, in its award of August 15, 1893, and so that justice shall not be denied to American subjects which has been so freely meted out to British subjects.

Mr. FULTON. That is the fur-seal bill, which was before the Senate the other day, when I made an explanation of its provisions. I do not care to take up further the time of the Senate in discussing the bill, unless Senators may desire to ask questions regarding it.

Mr. LODGE. The bill has already been read, Mr. President?

The PRESIDING OFFICER. The Chair is advised that the bill has heretofore been read. Is there objection to its present consideration?

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill, which had been reported from the Committee on Foreign Relations with amendments.

Mr. PLATT of Connecticut. Mr. President, I suppose this bill will pass, as Congress is exceedingly liberal when an equitable claim is presented, and especially when it has the support of so distinguished a gentleman as Mr. Dickinson, who was, I believe, a member of the tribunal.

Mr. FULTON. No; he was of counsel.

Mr. PLATT of Connecticut. Of counsel of the tribunal I should have said.

But I can not see why the bill should pass, Mr. President. It is put only upon the ground, as I remember the report, that the captains of these vessels assisted the counsel of the United States in furnishing evidence to cut down the claims of owners of foreign vessels for damages against the United States. To what extent that was done of course I have no means of knowing, except from the statement of Mr. Dickinson, but the parties whom we are now proposing to compensate for the seizure of their vessels were American citizens; they had no right to be upon the sea at all except by charter from the United States, and at the time they went into this pelagic sealing business it was against the law and against the orders of our Government. We had declared Bering Sea to be a closed sea. I think that ought to bind people who are operating United States vessels. Afterwards, to be sure, the tribunal at Paris declared that our action in that respect was unjustifiable and that Bering Sea was not a closed sea—that we could not so declare it; but I think our own shipowners and captains ought to have obeyed the Government of the United States. If they took the chances to disobey the Government, we ought not now to come in and recompense them for the seizure of their vessels. They violated the laws, the rules, and the regulations of the United States in going there for that pelagic sealing in Bering Sea. While we might, under the circumstances, be compelled to pay to the owners of foreign vessels damages for the seizure of their vessels, I do not think we ought to pay such damages to our own shipowners.

Mr. FULTON. If the Senator will allow me—

Mr. PLATT of Connecticut. I merely want to say that while the bill will probably pass, I can not see any foundation for it, certainly in law, and it is admitted in the report that these vessel owners have no legal claim to compensation, and certainly in equity I can see none.

Mr. FULTON. I want to ask the Senator this question: Is it not a fact that the United States Government presented a claim to Russia for indemnification of the American sealers who

were apprehended by the Russians, and exacted payment from Russia for the vessels that she had seized in what she claimed to be her half of Bering Sea?

Mr. PLATT of Connecticut. I am not informed as to that; but I presume it is a fact, and if the Senator states it as such I would not question it.

Mr. FULTON. It is a fact. I have simply mentioned it as seeming to me to indicate that after the award of the arbitrators at Paris denying the right to this Government to arrest vessels in Bering Sea beyond the 3-mile limit, if the United States exacted payment from Russia, we ought to be willing to make compensation in this case.

Mr. LODGE. Mr. President, this bill was reported by the Senator from Alabama [Mr. MORGAN], who is strongly in favor of it. It was reported unanimously from the Committee on Foreign Relations, who gave the matter very careful consideration. Our Government undertook to establish a claim covering certain waters and to prohibit pelagic sealing therein, a claim in which Russia sympathized with us, she making a similar claim. In pursuance of that claim we seized certain vessels of different nations, and Russia did the same. By agreement and treaty the question of our right so to do was referred to an international tribunal. That tribunal decided that we had no right to make such laws in regard to those waters. Under that decision we made compensation for the British ships which were seized, and Russia made compensation for the ships of the United States as well as for the British ships which she had seized.

Now, our people who violated our law as it stood at that time stand exactly on the same ground to us as the British seamen, so far as this is concerned, because the international tribunal decided that we had no right to pass any such law. We agreed to the tribunal and we accepted the decision.

The vessel masters and the vessel owners whom it is proposed to relieve here were called as witnesses. At great personal risk they appeared before the tribunal at Vancouver; they furnished testimony which could be procured in no other way, and owing to that testimony the claim against the United States was cut down nearly \$800,000—nearly twice as much as is now claimed for these seamen and vessel owners.

It seems to me, Mr. President, that if ever there was a just claim against the Government it is the claim of these men. It has been held by an international tribunal that we had no right to pass that law, and we have recognized that by paying damages to the vessel owners of other nations whose vessels we seized and also by exacting it from other nations. If we do that to others, I think it would be in the highest degree unjust to say to these men, who have been of such service to the United States: "You shall not receive any payment because you happen to have been seized by United States cruisers. If you had been seized by Russian cruisers, you would have been paid back your damages." The position of Russia was just as unlawful as our own.

This claim has been carefully examined by the Foreign Relations Committee. We heard Mr. Dickinson at length, we examined all the papers, and the report, which was made by the Senator from Alabama, was unanimous. I have never seen a case in which it seemed to me it would be more unjust, more inequitable, than to refuse to make payment to these men. It does not affect the merits of the case or their right to their claim that they rendered a great service to the United States; but, as a matter of fact, they did render that service. They rendered it at great personal risk, and saved the United States a great deal more money than it is now proposed to pay them under the provisions of this bill.

Mr. FORAKER. Mr. President, I was a member of the subcommittee which examined this bill, and I want to submit just one observation in answer to the point made by the Senator from Connecticut [Mr. PLATT], that from the reading of the report it appears to him that if this bill should be passed this relief would be granted solely on the ground that these proposed beneficiaries assisted the United States with their testimony. That is a mistake. The Senator has not read the report correctly. The ground upon which this relief is to be granted is that they did not violate any law of the United States by fishing in Bering Sea at the places where they were respectively seized. They were fishing beyond the 3-mile limit in the open sea, a sea that we then wrongfully claimed was a closed one. Therefore, they were not violating any law of the United States except only in a technical sense, for there was no law of the United States validly in operation beyond the 3-mile limit. The ground of the relief, therefore, is that they were seized unlawfully; that they had a right to be where they were, just as the vessels of other nations had a right to be there, and that their seizure was unlawful, just as

the seizure of the vessels of other nations was unlawful. The United States having committed a wrong in making a wrongful seizure, in depriving them of their property, it is the duty of the United States, morally and also legally, if we are to recognize and make reparation for a wrong when we have committed it, to grant the relief that this measure provides, which is not an appropriation of money to recompense them to the amount of a named sum, but simply referring the case to the court of the ninth circuit to take jurisdiction, to hear the petition, to sit in judgment, determine the controversy, and adjudicate the claims, which will then be paid after there has been just compensation arrived at.

Mr. McCOMAS. Will the Senator permit me to ask him a question?

Mr. FORAKER. Certainly.

Mr. McCOMAS. The Senator takes as the ground of his support of this bill the illegality of the seizure of seal-fishing ships upon the high seas, which were claimed to be violating the law of the United States, which law, as afterwards decided by a competent tribunal, was held not to extend to the seas wherein they operated.

The first section of this bill says that these vessels "were rightfully registered under the laws of the United States," but the relief is to be given to them, as stated in the bill, "as being engaged in unlawful fur sealing, by ships' officers or agents of the United States." I submit if these men were entitled to relief because they violated no law of the United States, it seems unsound to say that they are to be compensated as persons who have been engaged in unlawful fur sealing.

While the question has been submitted to a tribunal, whose award has been made, it does seem to me singular that a bill should be passed by Congress to indemnify people upon alleged equities, which recites that they are to be indemnified for having been engaged in unlawful fur sealing. That is not a proper statement of any equity which exists, but is a reflection upon the equity to be urged in their behalf.

Mr. FORAKER. The Senator does not construe as I do the language to which he refers. The language to which he refers is a mere recital of the fact that these vessels were duly registered and that they were seized on the ground that they were unlawfully sealing at that particular place of seizure—not that they were unlawfully sealing, for it has turned out that they were not. That is the very ground.

Mr. PLATT of Connecticut. Were they not unlawfully fishing there at the time when they were seized, because they were violating the municipal law of the United States as it then stood?

Mr. FORAKER. As it then stood, if it had been a valid law, certainly; but as it was afterwards decided that it was an invalid law, and, if it was an invalid law, it was invalid from the beginning—it was never law rightfully enacted or rightfully enforced, except as to the 3-mile limit.

The resolution is as the Senator from Maryland suggests, but he does not interpret the language as I do, for that is a mere recitation of fact. Those vessels were seized upon the theory that they were at the time engaged in unlawful pelagic sealing.

That would have been strictly true if that law had been a valid law; but, not being a valid law, they had a right to take the risk of fishing there, just as everybody else had a right to take it, and just as the vessels of other nations did. We have recognized that we were wrong in undertaking to apply our law over the whole of that sea, at any place beyond the 3-mile limit, and that it is our duty to compensate those who were wrongfully seized, because they were not violating our law, and if it is our duty to compensate the British or Russian ship-owners because we unlawfully seized their vessels, it is our duty certainly to do justice to our own.

Mr. PLATT of Connecticut. Will the Senator from Ohio permit me?

Mr. FORAKER. Certainly.

Mr. PLATT of Connecticut. How far is this principle going to carry us? Suppose Congress passes a law that a certain act engaged in by a citizen of the United States shall be unlawful, and he shall be imprisoned for committing that act, or there is a penalty for the commission of certain acts; suppose that Congress passes a criminal law, or a civil law, if you please, putting the citizen under a penalty for violation of that law, and he goes forward and violates it and the case goes to the Supreme Court and the Supreme Court finds the law to be unconstitutional; that we could not pass such a law. Are we then to go forward and pay him an indemnity for all he has suffered in the way of imprisonment, false imprisonment, if you please, or improper imprisonment, under a law which was afterwards declared to be unconstitutional? Are we going to do that, and if not, where are we going to stop?

Mr. FULTON. Will the Senator allow me to ask him this, in the way of an answer: Not indemnify him in the way of compensation for false imprisonment probably, but suppose the law to which the Senator referred was a law imposing certain taxes and the Government, pursuant to that law, had collected the taxes; had taken the property of the citizen for the tax and sold it, and diverted the money into the Treasury, and the Supreme Court had subsequently held the law to be unconstitutional, would we not repay the citizen?

Mr. PLATT of Connecticut. That is an entirely different case, Mr. President. This is a law which at the time these ships were sealing forbade their sealing in those waters. It was a prohibition of the United States against that very act. My point is that while foreigners were not obliged to recognize or submit to or obey the laws of the United States, if our own citizens, who had no right to sail a vessel except by permission of the United States, went there they took the chances.

Mr. FORAKER. They took their chances.

Mr. LODGE. Does not the Senator know that if our claim had been valid, then the British and Russian ships or the ships of any other nation would have been violating our laws and liable to seizure?

Mr. PLATT of Connecticut. It is entirely different whether they were foreigners or our own people.

Mr. LODGE. But their act would have been unlawful. We had put out a claim under this law to certain waters. It was a contested claim at the time. We knew when we passed the law that we were attempting to extend it and make a closed sea where it was contended by other nations we had no right to attempt to make a closed sea. It applied in the same way to foreign vessels. If a foreign vessel comes within the 3-mile limit and violates the municipal regulations of the United States, she is just as liable as is a vessel of the United States; but if a foreign vessel comes within a region that we claim and violates a law, and then it appears that we had no right to extend the law over that region, of course we are liable for her seizure, and I do not see why we are not liable to our own people in the same way.

Mr. DOLLIVER. Mr. President, I have had my attention called during my service in Congress to a good many queer claims against the Treasury of the United States. I remember some time ago that a claim was presented by one of the States of the Union one of the items of which consisted of "damages to public roads by hauling the artillery of the United States over them during the civil war." But I believe for the first time in the history of the Government a claim is made here for damages accruing to people in the exercise of their option to violate the laws of the United States.

Mr. LODGE. They did not violate the law of the United States. That is the precise point.

Mr. DOLLIVER. I undertake to say that they did violate a law of the United States making it an offense to be guilty of pelagic sealing in Bering Sea.

Mr. FULTON. Will the Senator allow me to ask him a question?

Mr. DOLLIVER. Certainly.

Mr. FULTON. Will the Senator contend that Congress would have enacted that law had it supposed it would apply only to citizens of the United States?

Mr. DOLLIVER. I have no reason to doubt that they would have enacted it. It is certainly true they did enact a law, and it is certainly true, whatever an international tribunal may have decided in respect to the character of the Bering Sea, that it was within the jurisdiction and power of the United States to prevent registered vessels of its own and citizens of its own from becoming mixed up in the crime of pelagic sealing in Bering Sea.

I remember very distinctly the controversy which Mr. Blaine had with the British Government in respect to this; and our Government took the position, fortified in a thousand ways, that whatever might be the technical law of nations, this was a gross offense against civilization. He put it upon the ground that it was against good international morals. I do not care what decision was made in respect to the rights of Englishmen or Russians to violate that law, there has never been any decision made that the United States had not a perfect right to forbid its own citizens and its own vessels—registered tonnage to prevent registered vessels of its own and citizens of its own from becoming mixed up in the crime of pelagic sealing in Bering Sea.

Now, they engaged in it. I undertake to say that seldom in the history of the world has a more shocking brutality been perpetrated than was perpetrated by these pirates of Bering Sea during those long years.

But this international tribunal decides that the law was not binding upon England, and we very properly pay; it was not binding upon Russia, and we very properly pay; but it will



be an evil hour for our Government when we undertake to reimburse people for damages which they suffered in violating our own laws, which are binding upon them and upon their vessels, whatever may be the judgment of international tribunals upon the subject.

Mr. FULTON. Mr. President, I submit it will be an evil hour for our Government when we forget to be just; when we exact that of other nations which we refuse to accord our own people. We put in a claim against Russia demanding that she should pay our citizens for the vessels she seized in that portion of Bering Sea over which she claimed jurisdiction, and over which, at the time we enacted this statute, we conceded she had jurisdiction, and we compelled her to compensate those citizens of ours whose vessels she seized. We have paid the British vessel owners for the vessels we seized. The only ones who have not been paid are our own citizens, whose vessels this Government seized.

The Senator from Iowa talks about the law that was violated. There is just the difficulty. There was no law. We thought there was a law, but it was not a law.

Mr. DOLLIVER. When was it determined not to be a law?

Mr. FULTON. It was determined by the Paris Commission, the only constituted authority to determine whether it was internationally a law or not.

Mr. DOLLIVER. They certainly had a right to determine whether it was the law internationally—

Mr. FULTON. Yes.

Mr. DOLLIVER. But when did the Paris tribunal determine that we had not the right to exercise that jurisdiction over our own people and our own vessels?

Mr. FULTON. That was not the question. But the Senator knows as well as I do that had not Congress supposed it could exclude all people from that sea it never would have attempted to have enacted this legislation.

Mr. LODGE. And never did.

Mr. FULTON. No; and never did, as the Senator from Massachusetts says. Our people saw people from Russia, the subjects of England and other nations going into those waters, enriching themselves by taking seals. Does the Senator expect that our people, believing as they did, that this law was really inoperative, would allow their ships to rot at the wharves while the owners of foreign vessels were reaping a rich harvest near our shores?

Mr. DOLLIVER. If the Senator will permit me, did these vessel owners have any doubt of the right of the United States to control their actions and the action of their vessels.

Mr. FULTON. Certainly they did.

Mr. LODGE. It was contested from the beginning.

Mr. DOLLIVER. It was contested by foreign nations; but I never heard of a contest on the ground of the lack of right on the part of our Government to govern the ships of its own citizens.

Mr. LODGE. The Congress never attempted to prevent pelagic sealing by Americans alone.

Mr. FULTON. Never. The idea was to prevent it by anyone. If we could not prevent all, there was no reason or argument for attempting to prevent any.

Just a word further, and I shall say no more on this bill. As shown by the report of the counsel who represented the American Government before the international commission appointed to adjudicate the amount due each of these British ship owners, when he went to Vancouver he found claims amounting to \$1,289,000 filed. He had no testimony, he could secure no testimony, with which to reduce those claims, and he was utterly helpless, or he would have been, had it not been for the fact that when he appealed to the American sealers they came forward and furnished the testimony to show the actual value of the vessels that the Britishers were claiming pay for, enabling him thereby to reduce the British claims from \$1,289,000 to \$467,000.

One man went so far as to do this: A British partner of his (he being an American citizen) presented a claim to the Commission for the entire value of the ship they jointly owned, which was registered in the name of the Britisher. The American owner went before the Commission and testified that he owned one-half, and thereby lost the opportunity of securing the pay which he might have received if he had allowed the Britisher to receive the whole amount and then divide with him.

Mr. PLATT of Connecticut. May I ask the Senator from Oregon a question?

Mr. FULTON. Certainly.

Mr. PLATT of Connecticut. Is it not a fact that the claims which were presented by British citizens involved a very large amount for what were called "consequential damages"—that

is, for having lost the opportunity to pursue their business and to kill a larger number of seals, and that the reduction of those claims from twelve hundred thousand dollars to the amount to which they were reduced was largely because that claim was disallowed?

Mr. FULTON. That may be. I do not undertake to say. I only refer to the report made by Mr. Dickinson, which the Senator himself has read doubtless, and he gives the entire credit for the reduction of the British claims to the American sealers, the owners of American craft.

Mr. FORAKER. He was our representative before that Commission?

Mr. FULTON. He was our representative before that Commission. I say it would be a sorry day for this nation were it to be guilty of so gross ingratitude and injustice as to refuse to pay our own citizens for their losses, it having recognized the claims of citizens of other nations.

The PRESIDING OFFICER. The amendments proposed by the Committee on Foreign Relations will be stated.

The first amendment proposed by the Committee on Foreign Relations was, in section 1, page 2, line 3, after the word "That," to strike out "in addition to the jurisdiction conferred by law upon;" in line 4, after the word "circuit," to strike out "said court;" and in line 5, after the word "have," to strike out "and possess;" so as to make the clause read:

*Be it enacted, etc.,* That the circuit court of the United States for the ninth circuit, shall have jurisdiction and authority to inquire into and finally adjudicate, in the manner provided in this act, all claims of the following classes, namely:

The amendment was agreed to.

The next amendment was, in section 1, page 2, line 8, after the word "claims," to strike out "of" and insert "against the United States by the;" in line 10, after the word "named," to insert "that were rightfully;" in line 11, after the words "United States," to strike out "against the United States arising out" and insert "on account;" in line 15, before the word "sealing," to strike out "engaged in" and insert "as being engaged in unlawful fur," and in line 16, before the word "Pacific," to insert "North;" so as to make the clause read:

First. All claims against the United States by the owners, charterers, masters, officers, and members of crews of vessels hereinafter named, that were rightfully registered under the laws of the United States, on account of the seizure of vessels and their cargoes, or the interference with the voyages of the vessels named in the list set forth in section 12 of this act as being engaged in unlawful fur sealing, by ships' officers or agents of the United States in the North Pacific Ocean and Bering Sea prior to the 6th day of April, 1894.

The amendment was agreed to.

The next amendment was, in section 1, page 2, line 20, after the word "because," to strike out "of the American citizenship of;" and in the same line, after the word "claimants," to insert "were citizens of the United States;" so as to make the clause read:

Second. All claims of citizens of the United States against the United States whose claims were rejected because the claimants were citizens of the United States by the international commission appointed pursuant to the convention of February 8, 1896, between the United States and Great Britain, arising out of the seizure of vessels and their cargoes or the interference with the voyages of vessels engaged in sealing by officers or agents of the United States in the Pacific Ocean or Bering Sea prior to the 6th day of April, 1894.

The amendment was agreed to.

The next amendment was, in section 2, page 3, line 11, after the word "attorney," to insert "in fact;" in line 16, before the word "subsequent," to strike out "Anna" and insert "Annie;" and in the same line, after the word "the," to strike out "date last aforesaid" and insert "6th day of April, 1894;" so as to make the section read:

SEC. 2. That all claims shall be presented to the court by petition, setting forth in ordinary and concise language the material facts upon which said claims are based, verified by the affidavit of the claimant, his agent, administrator, or attorney in fact: *Provided*, That all claims shall be presented to said court within two years after this act takes effect or shall thereafter forever be barred: *And provided*, That the claims for seizure and damages suffered, if any, in the cases of three schooners, to wit, the Bowhead, Winchester, and Kate and Annie, subsequent to the 6th day of April, 1894, may be inquired into and finally adjudicated in the manner provided in this act.

The amendment was agreed to.

The next amendment was, in section 3, page 3, line 21, after the word "section," to insert "in which the United States shall be named and proceeded against as the party defendant;" so as to make the section read:

SEC. 3. That the claimant shall cause a copy of his petition, filed under the preceding section, in which the United States shall be named and proceeded against as the party defendant, to be served upon the Attorney-General of the United States in such manner as may be provided by the rules or orders of said court.

The amendment was agreed to.

The next amendment was, in section 4, page 4, line 3, after the word "or," to insert "by."

The amendment was agreed to.

The next amendment was, in section 5, page 5, line 7, after the words "Bering Sea," to strike out—

, and may grant to claimants hereunder the measure of relief granted to subjects of Great Britain under the decision of the international commission appointed under the convention between the United States and Great Britain, concluded February 8, 1896, if in the opinion of the court the same is just.

The PRESIDING OFFICER. There is an amendment to section 6, not offered by the committee, which will be stated.

The SECRETARY. In section 6, line 17, page 5, after the word "court," it is proposed to strike out the word "as" and insert "in so far as the same may be material."

Mr. PLATT of Connecticut. How will it read then?

The Secretary read as follows:

SEC. 6. That in considering the merits of claims presented to the court hereunder any evidence, affidavits, reports of officers, and such other papers as are now on file in the Departments of the Government of the United States shall be considered by the court in so far as the same may be material competent evidence.

Mr. PLATT of Connecticut. I do not think that cures the defect in this section. How will it read?

The PRESIDING OFFICER. The Secretary will again read the clause referred to.

Mr. PLATT of Connecticut. How will line 17 read?

The Secretary read as follows:

Considered by the court in so far as the same may be material competent evidence.

Mr. FORAKER. "Material and competent." That is the amendment I offered, I believe; that is, the court is to have the benefit of whatever is material and competent that may be on file in the State Department. It perhaps would have a right to that anyhow, or the parties would have a right to offer it.

Mr. FULTON. Does the Senator think "competent" ought to be used in that amendment? It seems to me "material" would be sufficient. The bill says it may be admitted and considered. That renders it competent.

Mr. FORAKER. That is the objection which the Senator from Wisconsin made to that provision.

Mr. PLATT of Connecticut. I do not see how inserting the word "material" answers the objection he made.

Mr. FORAKER. "Material and competent."

Mr. PLATT of Connecticut. Of course I wash my hands of this bill, but I do not know why ordinary papers, according to this unlimited clause "such other papers as are now on file," should be made competent evidence in this case—papers not sworn to—not taken with reference to it; but wherever they can find in the State Department and the other Departments any letters referring in any way to this matter, they are to constitute evidence for this court. That is just what it does, whether or not you put in the words "if the court considers it material."

Mr. LODGE. I think the amendment was not perfected as the Senator from Wisconsin intended. Commencing in line 16 with the words "United States" it should read "which shall be considered by the court as material and competent evidence."

Mr. DOLLIVER. Mr. President, this seems to be a bill to authorize the payment of damages arising out of the confiscation and destruction of certain ships. Am I correct about that? If so, I can not imagine what peculiar questions that presents which would require this court to rummage the archives of the State Department for scraps of paper and ancient affidavits to support it. This bill raises a claim at best unusual, and at worst very questionable, and it looks to me as if it ought to stand upon the ordinary law of evidence. I should like to know what issue is involved in this that would suffer by being required to submit to the usual course of testimony in United States courts.

Mr. FORAKER. The Senator from Alabama can answer the question better than I can, but it is my impression that this provision was put in the bill for the benefit of the Government, there being a great many documents on file in the State Department which it was thought would be beneficial to the Government if the Government might be authorized in this way to use them. But I do not know that there is any objection to striking out the whole section. There certainly is not on my part, and, if the Senator from Alabama will concur in it, I will move to strike it all out.

Mr. MORGAN. Mr. President, this bill was drawn, I suppose, by Mr. Dickinson, and was examined, and I offered it, thinking at the time I did not approve of all its provisions. It went before the committee, and the Senator from Ohio and I were put on a subcommittee to consider it. We remodeled the bill quite considerably, and the section which is now up for consideration I thought was put in to enable the court to do what had been

done or was asserted to have been done by the commission before whom Mr. Dickinson appeared as the attorney of the United States. They referred to all manner of papers, chiefly not for the purpose of settling the validity and justice of the demand itself, but the question of damages. The Senator from Ohio and I, in considering this matter, concluded that there were some parts of that section which might be necessary for the Government of the United States on the question of damages. The court might wish to refer to the correspondence on file in regard to the matter with a view to the ascertainment of damages. And so we changed Mr. Dickinson's proposition, as it stood in the other direction, and put it, as we thought, in favor of the Government.

However, I have no objection to the section going out, because I suppose the court will, after all, take a somewhat broad and equitable view of this question in respect to damages and everything of that sort. The damages that were allowed by the commission, which sat in Victoria I believe, I thought was extremely excessive. The fact is the pressure in Victoria was almost irresistible and amounted to coercion, and the truth is that if it had not been for the presence of these sealers and their taking the side of the Government of the United States, we should have been mulcted in many thousands if not hundreds of thousands of dollars in damages from which they saved us. Their conduct, as represented by Mr. Dickinson, was not only very worthy but very patriotic. Well, I will say no more about that. But I have no objection to the section going out if my colleague on the committee thinks it best.

Mr. FORAKER. I think there is no objection to its going out.

The PRESIDING OFFICER. The question before the Senate is on agreeing to the amendment offered by the committee.

Mr. PLATT of Connecticut. I understand it is proposed now to strike out this section?

Mr. FORAKER. Yes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Ohio to strike out section 6 of the bill.

The amendment was agreed to.

The next amendment of the Committee on Foreign Relations was, in section 7, page 6, line 1, after the word "interest," to strike out "may" and insert "is subject to;" so as to make the section read:

SEC. 7. That in the trial of any suit brought under the provisions of this act no person shall be excluded as a witness because he is a party to or interested in such suit, and any claimant or party in interest is subject to be examined as a witness on the part of the Government.

The amendment was agreed to.

Mr. PLATT of Connecticut. Mr. President, we come now to another very remarkable feature of this bill—the authority to compute interest on these damages from the time of the seizure until the time when an appropriation is made. I venture to say that we have not passed any bill for the payment of interest on a claim against the United States, unless that claim was founded on a contract which bound the United States to pay interest, since I have been a member of the Senate. I move to strike out—

Mr. COCKRELL. All from line 8 down to line 14, on page 6.

Mr. PLATT of Connecticut. All from line 8 down to line 14.

Mr. FORAKER. Mr. President, I desire to say in answer to that that the committee, when they reported this bill, were well aware of the rule that the Senator from Connecticut has referred to. We understood that interest is not usually allowed except where there is a contract obligation underlying the claim; but at the same time the Congress is not estopped on that account from doing justice. Therefore we put into this bill an amendment not broadly allowing interest, but allowing the court to allow interest to be computed and added to any claim "if in the opinion of the court such allowance is necessary to do complete justice to the claimant." There are some exceptional cases which led us to think the allowance of interest would be necessary to do justice, and we felt that it was perfectly safe to leave it to the circuit court where the case is to be tried.

Mr. COCKRELL. I wish to ask a question of the Senator from Ohio.

Mr. FORAKER. Very well.

Mr. COCKRELL. Upon that simple statement—a correct statement—that the Senator made would not every man whose property was taken during the war for the use and benefit of the Army have an equal right to come in and claim interest? I do not think there would be any question about it. I think this is the most dangerous thing that has been put in any bill for a long time, because you admit the principle of it, and Congress will be flooded with bills for the payment of interest. We had the question here on a contract. A bill was reported



from the Committee on Post-Offices and Post-Roads, where they undertook to allow interest on a claim for some \$4,000. The man had a contract and the matter was reported favorably by the Committee on Post-Offices and Post-Roads. After a thorough discussion of that question and the principle involved in it, the Senate decided by almost a two-thirds majority that we would not pay the interest upon it. I think this would be an exceedingly dangerous precedent. I hope the amendment of the Senator from Connecticut will be agreed to.

Mr. FORAKER. It is entirely immaterial to me; I have no interest in the matter one way or the other. The only object the committee had in view was to do justice to these people. If there be objection to that provision, so far as I am personally concerned, I have no objection to its going out. But I should like to know the opinion on that point of my colleague from Alabama, who was on the subcommittee with me in the consideration of this measure.

Mr. McCOMAS. Before the Senator takes his seat, as I understand the principle stated by the Senator from Missouri in respect to judgments by the Court of Claims and the law on contracts, interest has been allowed upon certain conditions by Congress.

Mr. PLATT of Connecticut. That is provided for by statute.

Mr. McCOMAS. Yes; by statute. In respect to contracts it has been often refused, but in respect to wrongs or torts I respectfully suggest there can be found no case in which Congress has allowed it. In the case of a wrong, where the allegation is that there was a law of the United States intended to prevent the act that was done, and that by some right the parties should be compensated, the compensation did not include interest. I suggest to the Senator from Ohio and the Senator from Alabama that all from the word "upon," page 6, line 8, to the end of section 8 be stricken out.

Mr. FORAKER. I have already said that I have no objection to that. The committee understood very well what is the rule in regard to this matter. We are not unmindful of that. If my colleague from Alabama does not object, that part of the section may be stricken out.

The PRESIDING OFFICER. If there be no objection, the amendment proposed by the Senator from Connecticut will be considered as agreed to, and all of section 8, after the word "thereon," in line 8, is stricken out.

Mr. COCKRELL. Down to the end of the section, in line 14.

The PRESIDING OFFICER. The next amendment of the committee will be stated.

The SECRETARY. In section 8, line 4, page 6, after the word "filed," strike out the words "in each case;" after the words "setting forth," at the end of line 4, insert the words "in each case;" and in line 7, after the word "upon," strike out "all" and insert "the;" so as to make the section read:

SEC. 8. That it shall be the duty of the court to cause a written opinion to be filed, setting forth, in each case, the specific findings by the court of the facts therein, and the damages to be awarded, and the conclusions of the court upon the questions of law involved in the case, and to render judgment thereon.

The amendment was agreed to.

The next amendment was, in section 9, page 6, line 15, after the word "make," to strike out "all necessary" and insert "any special;" and in line 17, after the word "and," to strike out "shall provide" and insert "for the hearing of such petitions may prescribe;" so as to make the section read:

SEC. 9. That the said court shall make any special rules of practice not inconsistent with the provisions of this act, and for the hearing of such petitions may prescribe the method of taking testimony by deposition or otherwise in such cases.

The amendment was agreed to.

The next amendment was, in section 10, page 6, line 21, after the word "have," to strike out "the same rights" and insert "such right;" in line 22, after the word "as," to strike out "are or may be reserved" and insert "is provided for;" in line 24, after the word "the," to insert "same;" in line 25, after the word "limitations," to strike out "therein contained;" and on page 7, line 2, after the word "the," to strike out "terms of the;" so as to make the section read:

SEC. 10. That the claimants or the United States shall have such right of appeal or to a writ of error as is provided for in the statutes of the United States, in other cases, to the United States court of appeals of said circuit, and upon the same conditions and limitations. The mode of procedure in claiming and perfecting an appeal in cases hereunder shall be in accordance with the statutes and rules of practice governing appeals from the circuit court of the United States to such court of appeals: *Provided*, That no appeal or writ of error shall be allowed after six months from the final judgment or decree.

The amendment was agreed to.

The next amendment was, in section 11, page 7, line 8, after the word "judgment," to strike out "or decree;" in line 11, before the word "in," to insert "against the United States;" and

in line 12, after the word "Congress," to strike out "in the proper appropriation bills;" so as to make the section read:

SEC. 11. That the Attorney-General shall report to Congress the suits under this act in which final judgment has been rendered against the United States, giving the date and amount of each, and a statement of the costs taxed against the United States in each case, for the payment of which claims and costs appropriation shall be made by Congress.

The amendment was agreed to.

The PRESIDING OFFICER. This completes the amendments proposed by the Committee on Foreign Relations.

Mr. PLATT of Connecticut. Mr. President, I do not know that I care to trouble the bill with amendments, but here is another very remarkable provision in the bill. I do not remember to have seen a bill passed referring a case to the Court of Claims or giving a court jurisdiction to try a case in which we provided in advance "giving the date and amount of each, and a statement of the costs taxed against the United States in each case, for the payment of which claims and costs appropriation shall be made by Congress." That is entirely unusual. There seems to be—

The PRESIDING OFFICER. Will the Senator kindly state the number of the section and the page and line?

Mr. PLATT of Connecticut. It is section 11. I think we might well leave this case to the ordinary methods of dealing with judgments of the court and suppose that Congress would make the appropriation. But the bill seems to have been drawn to get this money any way, no matter what the circumstances may be. I do not know why it is necessary to give all this unusual consideration to the people who have been engaged in the most nefarious thing that this country has seen or knows of in the last twenty years in business on the high seas.

Mr. FORAKER. Mr. President, it may be unusual for that provision to occur in the bill, but it certainly is not remarkable. The bill was drawn by some one who was favorable to the proposition that these people should be compensated to such an extent as the court hearing their claims might adjudge them to be entitled to compensation. Whoever drew the bill (I do not know who drew it; perhaps Mr. Dickinson, for he was counsel for the Government and very much interested in this matter) put that clause in there. It did not occur to me, as it probably did not occur to the Senator from Alabama, that there was anything unusual. Certainly it did not occur to either of us that it was remarkable that we should provide for the adjudication of claims and then for the payment of them. But if that is remarkable, if that gives the Senator any trouble, I have no objection to its going out. If the practice be as he has stated, and it is usual not so to provide in a bill authorizing the adjudication of a claim in court, let it be stricken out.

I wish to say, Mr. President, in answer to the criticisms which seem to be made in such bad temper that there is no ground for them that I know of. I knew nothing about these claims until they were brought before the Senate in the usual way and the bill providing for their adjudication was referred to the committee of which I have the honor to be a member, when I was called upon as a member of the subcommittee, together with the Senator from Alabama [Mr. MORGAN], to consider the bill. We took it up, as the Senator from Massachusetts said a while ago, and gave the fullest consideration to it. The whole matter was gone into as to the merits of these claims and as to the equity and justice of something being done by the United States, and that committee were of one mind on the subject. It was the unanimous report that something should be done and that that should be done—for it seemed to be the most feasible thing to do under all the circumstances—which this bill provides shall be done. We could not sit as a court and determine how much each man was entitled to receive, if he was entitled to anything, but we proposed to refer it to a court. We gave the circuit court of the ninth circuit, which sits at the place where the people live and where the witnesses can be called before the court, jurisdiction to hear and determine in the ordinary way in which judicial proceedings are conducted the claims of these people.

Now, we have had that and that only in view, and yet we are met here with all kinds of suggestions—that this is a remarkable measure, an extraordinary measure, an unprecedented measure—and we are told that these men were engaged in a reprehensible business and that they were engaged in a violation of law. In large measure there is truth in that. But we are not considering that question now. They had a right to be doing what they were doing at the place where they were doing in the Bering Sea to the extent our statute had a right to be applied, but our statute had no right to be applied by anybody beyond the 3-mile limit. A court by which we are bound has so found and so held, and we have accepted that finding. The

only question now is, having done justice to everybody else—to the British owners, to the Russian owners—whether we are going to deny justice to our own citizens who happened to be engaged in the same business.

This was a controverted proposition. Congress legislated. They took the risk, of course, of that law being valid, and it turned out that they had the right on their side. The Government that passed the statute exceeded its power. It had no right to prohibit pelagic sealing beyond the 3-mile limit. Therefore these men violated no statute of the United States except only one which by its terms, but not lawfully and validly, applied to the people where they were seized and where the property was taken from them.

Now, the Senator has asked in the course of this debate whether we are to establish the principle that men have a right to take upon themselves the risk of violating the law, and when deprived of their property wrongfully, as it afterwards turned out, the Government is obliged to compensate them. That is not a new thing. I take it that in every State of the Union, as well as by the Government, the practice has been that when wrongfully, because unlawfully, we seize and take from a citizen his property we compensate him. Certainly we do it to be honest and want to do justice, and that is what I take it the United States Government wants to do and should do under all circumstances.

The statute was passed in good faith, of course, and I sympathize with all that has been said against pelagic sealing. I think it has been brutal; I think it has been without justification; and ever since I have been a member of the Senate I have been striving to bring about some kind of legislation that will break up the present practice, for it is still indulged in and indulged in to an extent that threatens the last of the herds of fur-bearing seals in Bering Sea. Something must be done and something is soon to be done, I verily believe, to break up the present practice.

Mr. President, that has no place here. When that comes up I will be found quite as energetic as the Senator from Connecticut in trying to break it up and in condemning that which has been done. The record will show that I have been active. I have made several reports on this subject. I happen to be chairman of the subcommittee of the Committee on Foreign Relations at this time having some remedy for that bad practice under consideration, and we are moving along the line of relief.

When that question comes up we will discuss it. But the question now is whether or not these men, who, as it turned out, did not violate a statute of the United States that had any application to them at the place where they were engaged and where they were seized, shall be compensated by the Government that wrongfully took away from them their property.

Senators say we had control of it and we had a right to prohibit it. The case is not different, Mr. President (and this shows the utter absurdity of that suggestion), from what it would be if the Congress of the United States should to-day pass a statute prohibiting deep-sea fishing beyond the 3-mile limit off the banks of Newfoundland.

Mr. PLATT of Connecticut. Can it do it?

Mr. FORAKER. No; it can not do any such thing. It can undertake to do it; but if it undertook to do it unlawfully, enacting a provision of that kind, and if it be held to be unlawful, as I think it would be, then if we were to seize their ships because they were violating an unlawful and invalid statute we would be liable to make compensation, if we wanted to be just.

Mr. PLATT of Connecticut. I wish to ask the Senator this question: Can we not prescribe what our vessels may do on the high seas?

Mr. FORAKER. Certainly.

Mr. PLATT of Connecticut. And that they may not engage either in deep-sea fishing or pelagic sealing? Can we not do that if we will, and bind those vessels by law not to do it?

Mr. LODGE. That is what we did.

Mr. PLATT of Connecticut. And punish them if they do it?

Mr. FORAKER. Certainly we have the power to do that if we see fit, but until we exercise the power here, prescribing the conditions, we have not any right to do it. I am taking the case as it stands to-day. If we are to-day without any enactment as to the taking by a vessel registered, and if we were to broadly prohibit it, it would be invalid.

Mr. LODGE. If the Senator from Ohio will allow me, we never forbade pelagic sealing.

Mr. FORAKER. Never.

Mr. LODGE. We said that it shall not be carried on within certain waters to which we lay claim, but we never forbade pelagic sealing elsewhere.

Mr. PLATT of Connecticut. But the point I wish to make

is this: Concerning vessels of the United States, have we not a right to say that they shall not fish off the coast of Maine, outside the 3-mile limit? No matter whether it is a closed sea or an open sea, have we not a right to put a restriction upon those vessels? We put it upon our vessels in providing that they should not fish in Bering Sea. Now, this tribunal says we could not do that; that it was not a closed sea; that we could not close that sea, and we could not treat it as a closed sea. But as to our own vessels, could we not say that they should not fish there?

Mr. LODGE. We have a right to say they shall not engage in deep-sea fishing anywhere, but we can not say that a man shall not engage in deep-sea fishing in waters we lay claim to and which do not belong to us, and that he may fish everywhere else.

The PRESIDING OFFICER. The hour of 2 o'clock having arrived it becomes the duty of the Chair to lay before the Senate the unfinished business, which is House bill 14749.

Mr. STEWART. Mr. President—

The PRESIDING OFFICER. The Chair asks the Senator from Nevada to kindly suspend for a moment while he lays before the Senate a bill returned from the House of Representatives with amendments.

Mr. STEWART. Certainly.

#### NATIONAL INCORPORATION OF RAILROADS.

Mr. NEWLANDS. Mr. President, I desire to give notice that to-morrow at 1 o'clock I shall ask unanimous consent for leave to present some remarks regarding the joint resolution introduced by me on the 4th day of January, being the joint resolution (S. R. 86) creating a commission to frame a national incorporation act for railroads engaged in interstate commerce.

#### ROADS, SCHOOLS, ETC., IN ALASKA.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 3728) providing for the construction and maintenance of roads, the establishment and maintenance of schools, and the care and support of insane persons in the district of Alaska, and for other purposes.

The amendments were, on page 5, line 9, after "board," insert "first elected;" on page 5, line 9, strike out "office" and insert "offices;" on page 5, line 10, strike out "one year" and insert "two and three years, respectively;" on page 5, line 10, after "qualified," insert "and one member of such board shall be elected each year thereafter and shall hold his office for a period of three years and until his successor is elected and qualified;" on page 6, line 16, strike out "twelve" and insert "twenty;" on page 6, line 17, strike out "eighteen" and insert "twenty;" on page 6, line 20, strike out "eighteen" and insert "twenty;" on page 9, line 5, strike out "eighteen" and insert "twenty;" on page 10, line 3, strike out "three" and insert "five;" on page 10, line 12, strike out all after "term" down to and including "prescribed" line 25.

Mr. NELSON. I move that the amendments be concurred in.

Mr. BEVERIDGE. What is the business before the Senate?

The PRESIDING OFFICER. A Senate bill returned from the House of Representatives with amendments.

Mr. NELSON. I trust the Senator will yield, that the amendments may be concurred in.

The PRESIDING OFFICER. The Senator from Minnesota moves that the Senate concur in the amendments made by the House of Representatives.

Mr. BEVERIDGE. Does it have place at this time by right?

The PRESIDING OFFICER. The Chair, under the rule, has a right to place such matters before the Senate at any time. The question is on the motion of the Senator from Minnesota to concur in the amendments.

The motion was agreed to.

#### ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the Speaker of the House had signed the following enrolled bills and joint resolution, and they were thereupon signed by the Presiding Officer:

An act (S. 1352) for the relief of Lindley C. Kent and Joseph Jenkins as the sureties of Frank A. Webb;

An act (S. 1501) for the relief of James F. McIndoe;

An act (S. 1753) for the relief of Pay Clerk Charles Blake, United States Navy;

An act (S. 3199) for the relief of A. M. Short;

An act (S. 5088) to aid the Western Alaska Construction Company;

An act (S. 6368) providing for the interment in the District of Columbia of the remains of Rose Dillon Seager;



An act (H. R. 2510) for the construction of a steam revenue cutter adapted to service in the waters of Albemarle and Pamlico sounds, North Carolina;

An act (H. R. 15317) to build a bridge across the Ouachita River, Arkansas; and

A joint resolution (S. R. 79) granting the temporary occupancy of a part of the Government reservation in Washington, D. C., for the American Railroad Appliance Exhibition.

BOUNDARY LINE BETWEEN COLORADO AND NEW MEXICO AND OKLAHOMA.

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States; which was read, and, with the accompanying papers, referred to the Committee on Territories, and ordered to be printed:

*To the Senate and House of Representatives:*

I transmit herewith, for the consideration of the Congress, a communication from the Secretary of the Interior relative to the reestablishment of the boundary line between the State of Colorado and the Territories of New Mexico and Oklahoma, surveyed under authority of the act of Congress of July 1, 1902. (32 Stat., 552, 574.)

THEODORE ROOSEVELT.

WHITE HOUSE, January 10, 1905.

FORT SHERMAN MILITARY RESERVATION.

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States; which was read, and, with the accompanying papers and maps, referred to the Committee on Public Lands, and ordered to be printed:

*To the Senate and House of Representatives:*

I transmit herewith a communication from the Secretary of the Interior relative to the reservation of certain lands in the abandoned Fort Sherman Military Reservation, in view of the contemplated use of such lands in connection with irrigation works to be constructed under the act of June 17, 1902 (32 Stat., 388).

The matter is presented for the consideration of the Congress.

THEODORE ROOSEVELT.

WHITE HOUSE, January 10, 1905.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles, and referred to the Committee on the District of Columbia:

An act (H. R. 14752) to change the name of the East Washington Heights Traction Railroad Company;

An act (H. R. 15477) to change the name of Thirteen-and-a-half street to Linworth place;

An act (H. R. 16450) to authorize certain changes in the permanent system of highways, District of Columbia;

An act (H. R. 16582) to authorize the Union Trust and Storage Company to change its corporate name; and

An act (H. R. 16802) to authorize the Commissioners of the District of Columbia to enter into contract for the collection and disposal of garbage, ashes, etc.

The following bills were severally read twice by their titles, and referred to the Committee on Commerce:

An act (H. R. 15810) to authorize Caldwell Parish, La., to construct a bridge across the Ouachita River; and

An act (H. R. 16870) to amend an act entitled "An act to authorize the construction of a bridge across the Tennessee River in Marion County, Tenn.," approved May 20, 1902.

STATEHOOD BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14749) to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico and of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States.

Mr. STEWART. Mr. President, the bill under consideration for the admission of Oklahoma to include the Indian Territory concerns the Five Civilized Tribes and their property. Fortunately the whole subject of the management of the property of those Indians is still under the jurisdiction of the United States. Nothing has been done which removes the Indians of the Five Tribes or their lands from the jurisdiction of the United States, and consequently it becomes the duty of the United States in dealing with them to see that the Indians are protected.

I have drawn an amendment which I propose to discuss, and I now offer it and ask to have it read.

The PRESIDING OFFICER (Mr. KEAN in the chair). The Senator from Nevada offers an amendment and asks that it be read. It will be read.

Mr. BEVERIDGE. Can not the Senator postpone offering his amendment?

Mr. STEWART. I wish to offer the amendment now. It will come in after the provisions relating to Oklahoma. It comes in on the twentieth page, I think.

Mr. NELSON. I suggest to the Senator that the bill is not

now being read by sections for amendment, and that this is not a proper time to offer his amendment.

Mr. BEVERIDGE. That is the reason why I suggested to the Senator that perhaps he might postpone it at this juncture.

Mr. CULLOM. To be voted on later?

Mr. BEVERIDGE. To be voted on later.

Mr. STEWART. The bill is in Committee of the Whole and open to amendment. I think under the rule the amendment is in order.

The PRESIDING OFFICER. The Senator can have the amendment read.

Mr. BEVERIDGE. There is no objection to the amendment being read. I would have suggested to the Senator that it be read if he had not suggested it himself; but, like the Senator from Minnesota, I do not understand that now is the time to offer the amendment.

Mr. STEWART. The bill is in Committee of the Whole and open to amendment, and an amendment can be offered at any time under the rule. But it is immaterial. I will offer the amendment now, and I ask that it be read.

The PRESIDING OFFICER. The amendment will be read.

The SECRETARY. It is proposed to insert the following:

That there shall be in the Department of the Interior a superintendent of Indian Territory affairs, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive an annual salary of \$15,000, and shall be stationed in the Indian Territory. And there shall be, in the Department of Justice, an attorney for Indian Territory affairs, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive an annual salary of \$10,000, who shall act as the legal adviser of the superintendent, and who shall perform such other services as may be required by the superintendent, and shall be stationed in the Indian Territory during his term of office; and the Secretary of the Interior shall appoint, on the recommendation of the superintendent, such officers and assistants as may be necessary to aid the superintendent in the conduct and management of the affairs under his jurisdiction, and the said Secretary shall fix the compensation of such officers and assistants and prescribe bonds to be given by such of them as ought in his opinion to be required to give bonds.

That said superintendent shall have jurisdiction of all matters and shall perform all duties vested in, conferred upon, and to be performed by the Commission to the Five Civilized Tribes under existing laws in the Indian Territory. And said superintendent shall investigate, or cause to be investigated, all leases and contracts relating to allotted lands in the Indian Territory, and, if in his opinion the needs of justice require it, he shall institute proceedings in the proper United States court to set the same aside, and such proceedings shall have precedence over all other civil business, and the court shall render judgment setting aside such contracts or leases in all cases where there was fraud, undue influence, or inadequate consideration, which judgment shall be final. And it shall be the duty of the superintendent to execute such judgment by putting the original allottee in immediate possession of his allotment. And said superintendent and such officers as he may designate shall also have jurisdiction of the estates of all deceased Indians and freedmen and of all minor and insane Indians, and such other Indians and freedmen in the Indian Territory as are incompetent to manage their own affairs. And the said superintendent shall have power to remove any person appointed under the provisions of this act. He shall also have power to remove any executor or administrator of the estate of any deceased Indian or freedman, and also to remove any guardian of a minor or other Indian or freedman incompetent to manage his own affairs, and to revoke any power of attorney granted by such executor, administrator, or guardian. He shall also investigate all proceedings under which the estate of any deceased Indian or freedman has been sold, disposed of, or incumbered in any way whatsoever and report the result of his investigation to the Attorney-General of the United States, who is hereby authorized to take such proceedings as he may deem necessary in that behalf. In all matters under the jurisdiction of the superintendent his decision shall be final. That no Federal, State, Territorial, or other court shall have jurisdiction to interfere in any manner whatever with the acts, proceedings, or decisions of the superintendent, or of any officer or person acting by his authority under this act by any writ, process, order, or proceedings of any nature.

That the superintendent of Indian Territory affairs may adopt the existing recording districts with such modifications as he may deem proper, and such person shall be recorder in each of such districts as the superintendent may designate and in the sale of allotted lands the recorder in each district shall be register. The receiver shall be such officer as may be designated by the superintendent. Both the register and receiver shall give such bonds for the faithful discharge of their duties as may be prescribed by the Secretary of the Interior. It shall be the duty of the superintendent to appraise the allotted lands in the several recording districts according to their reasonable value and notify, from time to time, the register and receiver in the several recording districts of such appraisements.

That the reservation of homesteads to the extent of 40 acres of land to each Indian and freedman allottee in the Indian Territory shall remain forever a permanent home for such Indian or freedman, and shall not be sold, leased, or incumbered in any way whatever.

All allotted Indian and freedman lands, excluding homesteads, in the Indian Territory shall be subject to sale under the provisions of this act, and not otherwise.

That any bona fide settler, who is a citizen of the United States, or who has declared his intention to become such, may become a purchaser of the lands allotted to any Indian or freedman, not exceeding 160 acres, at not less than its appraised value, and pay for the same in five annual installments, with interest at the rate of 6 per cent per annum on the deferred payments, but shall not be allowed to pay for such land otherwise or in a longer or shorter period. Such purchaser shall present to the register an application of the allottee, if an adult, or an application of a guardian in his behalf, if a minor or an incompetent person, for the sale of his or her allotted lands, except the homestead, and shall pay to the receiver of the district the first annual installment, which shall thereupon be paid to the Indian or his guardian; whereupon such purchaser shall receive from the register a certificate of entry, a duplicate of which shall be transmitted to



the Secretary of the Interior. The said purchaser shall within thirty days thereafter enter upon the land and reside thereon continuously for five years, build thereon a house costing at least \$150, put under cultivation not less than 20 acres, and pay to the receiver the remaining four installments. If any purchaser shall fail or refuse to make payment of any installment of the purchase money for thirty days after it shall have become due, or shall fail to make settlement and establish residence upon the land for a period of three months from the date of the contract of sale, or shall remove from and abandon said land for a period of three months, such contract shall thereby terminate, and the superintendent of Indian Territory affairs is hereby given authority and jurisdiction in any such case to summarily eject from the land such defaulting purchaser and put the Indian allottee or his guardian in possession thereof, in which event the allottee shall take the land free from any lien or liability for any taxes which may have been assessed against the same, or for any other obligation whatever: *Provided, however*, That in case of the death of the applicant before he has completed the payments, residence, and improvements required, his heirs or legal representatives may be substituted in his place as purchasers. After full compliance with the provisions of this act, the purchaser may make proof to the register and receiver of his payment, residence, and improvement, as hereinbefore required, under such regulations as the Secretary of the Interior may prescribe. The register and receiver shall report the facts to the Secretary of the Interior, together with their conclusions; and if in the opinion of the Secretary of the Interior, the purchaser has complied with the statute, a patent conveying full title shall be issued to such purchaser by the Secretary of the Interior in pursuance of the application of the Indian or freedman, or of the guardian of such Indian or freedman. All moneys received by the several receivers, except the first payment, shall be paid to the superintendent, who shall pay the same over to the Indians whose lands have been taken, under such regulations as the Secretary of the Interior may prescribe.

That no sale, agreement, or understanding, express or implied, made by any Indian or freedman concerning the incumbrance or future disposition of his allotted land shall have any binding force or effect, nor shall any such agreement or understanding be offered in evidence in any court for any purpose whatever; that no lease or sale of Indian or freedman lands in the Indian Territory shall be made by any Indian or freedman, or his guardian, except as in this act provided; and all laws authorizing the sale or removal of the restrictions upon the alienation of lands of allottees of any of the Five Civilized Tribes, and all laws inconsistent with any of the provisions of this act, are hereby repealed.

That all laws of the State of Arkansas, and all other laws, rules, and regulations affecting the estates of deceased Indians or freedmen, or providing for the appointment of guardians for minor Indians or freedmen or of Indians and freedmen incompetent to manage their own affairs, now in force in the Indian Territory are hereby repealed, and all matters connected therewith shall be under the jurisdiction of the superintendent of Indian Territory affairs and the officers designated by him, and all proceedings with regard thereto shall be conducted by said superintendent under such regulations as the Attorney-General may prescribe.

Mr. STEWART. Mr. President, the bill under consideration for the admission of Oklahoma, to include the Indian Territory, concerns the Five Civilized Tribes and their property. Fortunately the whole subject of the management of the property of those Indians is still under the jurisdiction of the United States. Nothing has been done which removes the Indians of the Five Tribes or their lands from the jurisdiction of the United States, and consequently it becomes the duty of the United States in dealing with them to see that the Indians are protected.

I have drawn an amendment which I propose to discuss, and I now offer it and ask to have it read.

The PRESIDING OFFICER (Mr. KEAN in the chair). The Senator from Nevada offers an amendment and asks that it be read. It will be read.

The SECRETARY. It is proposed to insert the following:

That there shall be in the Department of the Interior a superintendent of Indian Territory affairs, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive an annual salary of \$15,000, and shall be stationed in the Indian Territory. And there shall be in the Department of Justice, an attorney for Indian Territory affairs, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive an annual salary of \$10,000, who shall act as the legal adviser of the superintendent, and who shall perform such other services as may be required by the superintendent, and shall be stationed in the Indian Territory during his term of office; and the Secretary of the Interior shall appoint, on the recommendation of the superintendent, such officers and assistants as may be necessary to aid the superintendent in the conduct and management of the affairs under his jurisdiction, and the said Secretary shall fix the compensation of such officers and assistants and prescribe bonds to be given by such of them as ought in his opinion to be required to give bonds.

That said superintendent shall have jurisdiction of all matters and shall perform all duties vested in, conferred upon, and to be performed by the Commission to the Five Civilized Tribes under existing laws in the Indian Territory. And said superintendent shall investigate, or cause to be investigated, all leases and contracts relating to allotted lands in the Indian Territory, and, if in his opinion the needs of justice require it, he shall institute proceedings in the proper United States court to set the same aside, and such proceedings shall have precedence over all other civil business, and the court shall render judgment setting aside such contracts or leases in all cases where there was fraud, undue influence, or inadequate consideration, which judgment shall be final. And it shall be the duty of the superintendent to execute such judgment by putting the original allottee in immediate possession of his allotment. And said superintendent and such officers as he may designate shall also have jurisdiction of the estates of all deceased Indians and freedmen and of all minor and insane Indians, and such other Indians and freedmen in the Indian Territory as are incompetent to manage their own affairs. And the said superintendent shall have power to remove any person appointed under the provisions of this act. He shall also have power to remove any executor or administrator of the estate of any deceased Indian or freedman, and also to remove any guardian of a minor or other Indian or freedman incompetent to manage his own affairs, and to revoke any power of attorney granted by

such executor, administrator, or guardian. He shall also investigate all proceedings under which the estate of any deceased Indian or freedman has been sold, disposed of, or incumbered in any way whatsoever and report the result of his investigation to the Attorney-General of the United States, who is hereby authorized to take such proceedings as he may deem necessary in that behalf. In all matters under the jurisdiction of the superintendent his decision shall be final. That no Federal, State, Territorial, or other court shall have jurisdiction to interfere in any manner whatever with the acts, proceedings, or decisions of the superintendent, or of any officer or person acting by his authority under this act by any writ, process, order, or proceedings of any nature.

That the superintendent of Indian Territory affairs may adopt the existing recording districts with such modifications as he may deem proper, and such person shall be recorder in each of such districts as the superintendent may designate, and in the sale of allotted lands the recorder in each district shall be register. The receiver shall be such officer as may be designated by the superintendent. Both the register and receiver shall give such bonds for the faithful discharge of their duties as may be prescribed by the Secretary of the Interior. It shall be the duty of the superintendent to appraise the allotted lands in the several recording districts according to their reasonable value and notify, from time to time, the register and receiver in the several recording districts of such appraisements.

That the reservation of homesteads to the extent of 40 acres of land to each Indian and freedman allottee in the Indian Territory shall remain forever a permanent home for such Indian or freedman, and shall not be sold, leased, or incumbered in any way whatever.

All allotted Indian and freedman lands, excluding homesteads, in the Indian Territory shall be subject to sale under the provisions of this act, and not otherwise.

That any bona fide settler, who is a citizen of the United States, or who has declared his intention to become such, may become a purchaser of the lands allotted to any Indian or freedman, not exceeding 160 acres, at not less than its appraised value, and pay for the same in five annual installments, with interest at the rate of 6 per cent per annum on the deferred payments, but shall not be allowed to pay for such land otherwise or in a longer or shorter period. Such purchaser shall present to the register an application of the allottee, if an adult, or an application of a guardian in his behalf, if a minor or an incompetent person, for the sale of his or her allotted lands, except the homestead, and shall pay to the receiver of the district the first annual installment, which shall thereupon be paid to the Indian or his guardian; whereupon such purchaser shall receive from the register a certificate of entry, a duplicate of which shall be transmitted to the Secretary of the Interior. The said purchaser shall within thirty days thereafter enter upon the land and reside thereon continuously for five years, build thereon a house costing at least \$150, put under cultivation not less than 20 acres, and pay to the receiver the remaining four installments. If any purchaser shall fail or refuse to make payment of any installment of the purchase money for thirty days after it shall have become due, or shall fail to make settlement and establish residence upon the land for a period of three months from the date of the contract of sale, or shall remove from and abandon said land for a period of three months, such contract shall thereby terminate, and the superintendent of Indian Territory affairs is hereby given authority and jurisdiction in any such case to summarily eject from the land such defaulting purchaser and put the Indian allottee or his guardian in possession thereof, in which event the allottee shall take the land free from any lien or liability for any taxes which may have been assessed against the same, or for any other obligation whatever: *Provided, however*, That in case of the death of the applicant before he has completed the payments, residence, and improvements required, his heirs or legal representatives may be substituted in his place as purchasers. After full compliance with the provisions of this act the purchaser may make proof to the register and receiver of his payment, residence, and improvement, as hereinbefore required, under such regulations as the Secretary of the Interior may prescribe. The register and receiver shall report the facts to the Secretary of the Interior, together with their conclusions; and if in the opinion of the Secretary of the Interior the purchaser has complied with the statute a patent conveying full title shall be issued to such purchaser by the Secretary of the Interior in pursuance of the application of the Indian or freedman, or of the guardian of such Indian or freedman. All moneys received by the several receivers, except the first payment, shall be paid to the superintendent, who shall pay the same over to the Indians whose lands have been taken, under such regulations as the Secretary of the Interior may prescribe.

That no sale, agreement, or understanding, express or implied, made by any Indian or freedman concerning the incumbrance or future disposition of his allotted land shall have any binding force or effect, nor shall any such agreement or understanding be offered in evidence in any court for any purpose whatever; that no lease or sale of Indian or freedman lands in the Indian Territory shall be made by any Indian or freedman, or his guardian, except as in this act provided; and all laws authorizing the sale or removal of the restrictions upon the alienation of lands of allottees of any of the Five Civilized Tribes, and all laws inconsistent with any of the provisions of this act, are hereby repealed.

That all laws of the State of Arkansas, and all other laws, rules, and regulations affecting the estates of deceased Indians or freedmen, or providing for the appointment of guardians for minor Indians or freedmen or of Indians and freedmen incompetent to manage their own affairs, now in force in the Indian Territory are hereby repealed, and all matters connected therewith shall be under the jurisdiction of the superintendent of Indian Territory affairs and the officers designated by him, and all proceedings with regard thereto shall be conducted by said superintendent under such regulations as the Attorney-General may prescribe.

Mr. STEWART. Mr. President, since the last session of Congress I have been studying conditions in the Indian Territory. I visited that Territory last fall and found a condition of things requiring radical changes. The amendment I have offered is intended to remedy glaring evils which need prompt action.

Before proceeding to a discussion of the amendment I will state that my views are in accord with those of the Secretary of the Interior and his subordinates, with whom I have had frequent consultations. I have just received from the Secretary of the Interior a letter transmitting a draft of a bill which is analogous to and in harmony with the amendment I have offered. The letter of the Secretary shows the conclusion



to which the Interior Department has arrived, and I will ask that the letter be read and following it the proposed bill by the Secretary of the Interior be printed in the RECORD.

Mr. BEVERIDGE (to Mr. STEWART). Why not make a statement of the substance of the bill prepared by the Secretary of the Interior?

Mr. STEWART. The bill proposed by the Secretary of the Interior is substantially the same as the amendment I have offered. There is very little difference. We have discussed the matter often and I requested him to prepare a bill embodying his views, which he has done.

Mr. BEVERIDGE. Does the bill prepared by the Secretary of the Interior cover the same points embraced in the Senator's amendment?

Mr. STEWART. I have provided for some things not contained in the bill of the Secretary of the Interior. The differences between my amendment and the bill of the Secretary of the Interior were suggested to me by members of the Committee on Indian Affairs, where the matter has been under discussion.

Mr. CULLOM. The Senator's purpose is that his amendment shall come in as an addition to the bill as it now stands before the Senate?

Mr. STEWART. Yes. I now ask to have read the letter of the Secretary of the Interior transmitting the bill he has prepared. I shall not ask that the bill be read, for, as I have said, is is somewhat similar to mine; but I shall ask that the proposed bill may be printed in the RECORD following the letter.

The PRESIDING OFFICER. The Senator from Nevada asks that the proposed bill may be printed immediately following the letter of the Secretary of the Interior. It will be so ordered in the absence of objection. The Secretary will read the letter referred to.

The Secretary read as follows:

DEPARTMENT OF THE INTERIOR,  
Washington, January 9, 1905.

CHAIRMAN COMMITTEE ON INDIAN AFFAIRS,  
United States Senate.

SIR: I have the honor to submit herewith, for the consideration of your committee, the draft of a bill "To create in the Department of the Interior a superintendent of Indian affairs, to define his duties, and for other purposes," and recommend that the same be enacted into law.

I invite your attention particularly to the discussion of the subjects covered by this bill on pages 58-61, inclusive, in my last annual report.

After referring to the efforts of the Department to secure protection for the Indians against the abuses prevalent in the Indian Territory in connection with the leasing of their lands, I stated:

"While it may not be possible to undo the injury already inflicted upon the wards of the nation on account of the lack of authority to carefully supervise their contracts in the leasing of their lands for grazing and agricultural purposes, yet I am fully persuaded that proper legislation should be enacted to protect them in the future. This legislation should include all of the Five Civilized Tribes, and throw around the Indian suitable safeguard against improvident rental contracts in the future."

And, after explaining the status of their lands, I called attention to the fact that of those already sold all but about 15 per cent had passed into the hands of speculators, and I expressed the opinion that:

"In my judgment, legislation should also be enacted authorizing the sale of lands by Indian allottees of the Five Civilized Tribes under regulations to be approved by the Secretary of the Interior, such sales to be made only to actual settlers, who should be required to occupy and improve the lands for five years before receiving deeds conveying full title to the lands. Provision should also be made permitting payments, under official supervision, for said lands in five annual payments, and in case of failure to pay any deferred payment, the land should revert to the vendor. I am satisfied that the Indian will receive a larger sum for his land, besides will be greatly benefited by having an actual settler in close proximity to the residue of his land. Such legislation will tend to prevent the accumulation of large tracts of land for speculative purposes only and permit the purchase of the lands by persons desirous of making homes for themselves upon the Indian lands."

The existence of the Dawes Commission terminates at the end of this fiscal year. The unfinished work of the Commission will be considerable, due in some measure to delays occasioned by litigation, some of which is still pending. Add to this the practical management of the sale and leasing of the surplus lands of, approximately, 90,000 allottees, the collection of purchase money installments and rentals, the care and supervision of the disbursement of their funds, the control and adjustment of the estates of deceased minor and insane Indians (which, if left to the courts, will be largely wasted in official and attorney fees), the supervision of their educational and industrial interests, and some idea may be formed of the magnitude and importance of the duties that will devolve upon the local administration of Indian Territory affairs for an indefinite period. It is believed that the most satisfactory results will be attained by placing such administration in charge of a single official, possessing a high order of the qualifications best adapted to the character of the great service to be performed and invested with adequate power to cope with the unusual conditions of the situation.

Under existing laws allottees may lease their lands for agricultural purposes for five years, without supervision. These leasing transactions have generally been characterized by such foul dealings as to conspicuously illustrate the utter incompetency of the great mass of these Indians to manage their property interests. Fraud and all sorts of imposition have become the rule in these matters and fair dealing the exception until the situation has become offensive to the public sense of the Government's obligation to these ignorant and helpless people.

In the near future, under the present system, the great body of their lands—all except the small homesteads reserved—will be subject to sale without any restrictions whatever. If this policy is not changed the lands will be largely taken by speculators, and these Indians will be speedily stripped of their comfortable and sufficient heritage to become a charge indefinitely upon the revenues of the Government.

It is difficult to contemplate the present condition of these Indians relative to their property interests and the dangers which so imminently threaten them without at the same time becoming imbued with a keen sense of the mandatory nature of our duty in the premises and the urgency for prompt and appropriate remedial provision.

Respectfully,

E. A. HITCHCOCK, Secretary.

The draft of the bill prepared by the Secretary of the Interior is as follows:

A bill to create in the Department of the Interior a superintendent of Indian Territory Affairs, to define his duties, and for other purposes.

Be it enacted, etc., That there shall be in the Department of the Interior a superintendent of Indian Territory affairs who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive an annual salary of \$8,000; and there shall also be appointed by the President, by and with the advice and consent of the Senate, an attorney for the Indian Territory, at an annual salary of \$5,000, who shall perform such services as may be required by the superintendent or the Secretary of the Interior.

Sec. 2. Said superintendent shall have jurisdiction of all matters and shall perform all duties vested in, conferred upon, and to be performed by the Commission to the Five Civilized Tribes and the Indian agent at the Union Agency, by or under existing laws, and generally shall have jurisdiction of all matters relating to the property interests of the Five Civilized Tribes, or of individual members thereof, and to adjudicate all contests and controversies in regard to them, subject to the right of appeal on questions of law to the Secretary of the Interior.

Sec. 3. All grazing and agricultural leases heretofore made by allottees of any of the Five Civilized Tribes shall be recorded in the office of the superintendent of Indian Territory affairs, or in such land offices as are hereinafter authorized, within sixty days after the passage of this act, and any lease not so recorded shall be absolutely void and of no effect. All such leases hereafter made shall be void unless approved by the Secretary of the Interior and filed in the proper office of record within ninety days after such approval. Jurisdiction and authority are hereby given the superintendent to investigate such lease heretofore or hereafter made by any allottee of any of the Five Civilized Tribes upon not less than ten days' notice to the lessee, and if he shall find that any such lease was procured to be made through fraud, material misrepresentation, or for an inadequate consideration, he shall vacate and cancel the same, and upon such cancellation he may eject the lessee, or anybody in possession under his lease, and put the lessor, or his legal representative, in possession of the premises: *Provided*, That allotments of Choctaw and Chickasaw freedmen shall be taken and held as homesteads. Any person taking possession of land under a lease made in violation of this section or of any other provision of law or declared by any law to be illegal or void or shall present for record any such illegal or void lease shall be guilty of a misdemeanor and upon conviction shall be fined not exceeding \$200 and shall also be liable to the owner of said land for damages to be recovered in civil proceedings.

Sec. 4. Such superintendent shall have exclusive original jurisdiction of the estates of all deceased Indians, and of all minor and insane Indians and freedmen in the Indian Territory, and shall have authority to sell, lease, or otherwise dispose of the same as shall be directed by the Secretary of the Interior.

Such superintendent is also hereby given authority and jurisdiction to sell, in accordance with the regulations to be prescribed by the Secretary of the Interior, all lands of the allottees of any of the Five Civilized Tribes upon request of such allottee, if an adult, or without such request if the allottee be a minor, except their homesteads.

Such sales shall be made to actual settlers only who shall be citizens of the United States or shall have declared their intention to become such, 10 per cent of the consideration to be paid in cash at the time of the delivery of the contract of sale and the balance in ten equal semi-annual installments, the deferred payments to bear 6 per cent interest. The contract of sale shall be executed by the vendor or his legal representative to the purchaser or his legal representative at the time of sale, and a deed shall be executed and delivered on full payment of the purchase money. All payments upon such sales shall be made to the superintendent or such other officer as the Secretary of the Interior may designate, but if any such payment shall be otherwise made it shall be treated as an unlawful and void payment. After any sale shall have been made and contract therefor executed the land covered thereby shall be subject to local taxation, but any such tax as a lien upon the property shall be subordinate to the claim of the vendor for the unpaid purchase money, which shall be and remain a first lien. Any such contract of sale shall not be assignable except with the express consent and approval of the Secretary of the Interior, and all the obligations assumed by and resting upon the original purchaser shall be performed by his assignee, who must have the qualifications prescribed for a purchaser. If any purchaser or his assignee shall fail or refuse to make payment of any installment of the purchase money for thirty days after it shall become due, or shall fail to make settlement and establish residence upon the land for a period of three months from the date of the contract of sale, or shall remove from and abandon said land for a period of three months, such contract shall thereby terminate and all payment made thereon shall be forfeited to the vendor, and the superintendent is hereby given authority and jurisdiction in any such case to summarily eject from the land such defaulting purchaser or assignee and to put the Indian allottee or his representative in possession thereof, in which event the allottee shall take the land free from any lien or liability for any taxes which may have been assessed against the same, or for any other obligation whatever.

No lands of the allottees of any of the Five Civilized Tribes shall hereafter be leased, sold, or otherwise disposed of, except in accordance with these provisions.

Sec. 5. The superintendent may, with the approval of the Secretary of the Interior, establish such land districts and land offices in the Indian Territory as he may deem necessary for the convenient transaction of the business; and any such lands, except homesteads, may be sold, as aforesaid, at any time after a duly executed deed therefor has been approved by the Secretary of the Interior, recorded and delivered to the allottee, and such deeds shall be so delivered without unnecessary delay, any law or agreement to the contrary notwithstanding; and if any person authorized to execute deeds to such allottees shall refuse or



fail to do so, the Secretary of the Interior may designate an official of the Department of the Interior to execute such deeds, which shall have the effect to convey full title.

SEC. 6. That no Federal, State, Territorial, or other court shall have jurisdiction to interfere in any manner whatever with the acts, proceedings, or decisions of the superintendent or of any person acting by his authority, by any writ, process, order, or proceedings of any nature.

SEC. 7. The superintendent of Indian Territory affairs shall give bond in such sum and with such surety or sureties as may be prescribed by the Secretary of the Interior for the faithful performance of his duties and for the safe-keeping of and faithful accounting for all money coming into his hands by virtue of his office, and shall perform his duties under the supervision and direction of the Secretary of the Interior, who is hereby authorized to make and enforce all such rules and regulations as he may deem necessary in the premises.

SEC. 8. All laws authorizing the removal of the restrictions upon the alienation of lands of allottees of any of the Five Civilized Tribes and all laws or parts of laws inconsistent with any of the provisions of this act are hereby repealed.

Mr. STEWART. The letter of the Secretary of the Interior points out in a general way the unsatisfactory condition of affairs in Indian Territory. I propose later on to elaborate somewhat the statements made by the Secretary from my own personal observation. I first call the attention of the Senate to

#### THE POWER TO DEAL WITH THE SUBJECT.

Senators will find that power fully sustained in the Lone Wolf case, where the character of the title of the Indians is dealt with. A patent to a tribe gives no individual property, for when the tribe is dissolved the patent falls because there is no longer any grantee.

Treaties with Indian tribes and patents issued in pursuance thereof do not deprive the United States of the power to dissolve the tribal relations and distribute the land held in common. Such is the effect of the decision of the Supreme Court of the United States in the Lone Wolf case. In that case the court said:

The appellants base their right to relief on the proposition that by the effect of the article just quoted the confederated tribes of Kiowa, Comanche, and Apache were vested with an interest in the lands held in common within the reservation, which interest could not be divested by Congress in any other mode than that specified in the said twelfth article, and that as a result of the said stipulation the interest of the Indians in the common lands fell within the protection of the fifth amendment to the Constitution of the United States, and such interest, indirectly at least, came under the control of the judicial branch of the Government. We are unable to yield our assent to this view.

The contention, in effect, ignores the status of the contracting Indians and the relation of dependency they bore and continue to bear toward the Government of the United States. To uphold the claim would be to adjudge that the indirect operation of the treaty was to materially limit and qualify the controlling authority of Congress in respect to the care and protection of the Indians, and to deprive Congress, in a possible emergency, when the necessity might be urgent for a partition and disposal of the tribal lands, of all power to act if the assent of the Indians could not be obtained. (Compilation of Laws and Treaties Relating to Indian Affairs (Kappler), 2d edition, vol. 1, p. 1058.)

Again in the same case the court said:

In view of the legislative power possessed by Congress over treaties with the Indians and Indian tribal property we may not specially consider the contentions pressed upon our notice that the signing by the Indians of the agreement of October 6, 1892, was obtained by fraudulent misrepresentations and concealment; that the requisite three-fourths of adult male Indians had not signed, as required by the twelfth article of the treaty of 1867, and that the treaty as signed had been amended by Congress without submitting such amendments to the action of the Indians, since all these matters, in any event, were solely within the domain of the legislative authority, and its action is conclusive upon the courts.

The court very properly declined to consider whether the statute under which the land was disposed of in the Lone Wolf case was in violation of a treaty or not, because the power of Congress could not be limited or controlled by any treaty arrangement with the Indians.

Mr. NELSON. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from Minnesota?

Mr. STEWART. Yes.

Mr. NELSON. I want to say to the Senator that, in addition to the Lone Wolf case, there are three other cases in the same line sustaining the same view.

Mr. STEWART. I have no doubt of it. A moment's reflection would satisfy anyone that that is so, because a treaty made with the Indians is no more sacred than any other treaty. It could be repealed by a law, and a deed made to a tribe which had ceased to exist of course would be ineffectual.

The amendment which I propose, however, is

#### NOT IN VIOLATION OF ANY INDIAN TREATY.

Each of the Five Civilized Tribes has entered into treaty stipulations for the segregation and allotment of their land, and also for the termination of their tribal relations on the 4th day of March, 1906. The greater part of the land has been allotted by the Dawes Commission, but no patents have been issued to individual Indians. The issuance of patents is deferred until the allotments are completed. After such completion of allotments the chiefs or governors of the various tribes are to issue patents. It is provided that within five years after the issuance of

patents the Indians may sell their land, with the exception of a homestead of 40 acres, which is reserved to the Indian for twenty-one years.

Mr. NELSON. Mr. President, will the Senator from Nevada yield to me for a moment?

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from Minnesota?

Mr. STEWART. Yes.

Mr. NELSON. I desire to call the Senator's attention to the fact that by a paragraph inserted in the last Indian appropriation act that provision has been modified and changed.

Mr. STEWART. I understand that. It was radically modified, though it was a great mistake to do so. I am going to deal with that. It was in part my fault that the modification was made. I had not then seen the country and did not know the facts. It is a very pernicious provision.

Mr. NELSON. I also want to say, in this connection, that the bill as it came from the House in section 13 had a provision practically removing all obstacles to alienation, which the committee have recommended be stricken out.

Mr. STEWART. The committee has recommended that the provision be stricken out, but the recommendation of the committee is not worth much, unless we have something more.

Mr. NELSON. We have the legislation that was given us last year by Congress in the Indian appropriation act.

Mr. STEWART. That legislation was ill advised. I propose to state the present conditions and to show that something is necessary to be done. I agree with the Secretary of the Interior and with others who have given the matter some attention, and if the Senator will listen to me a little while he will see the necessity for such legislation as I propose.

The Secretary in his letter to me says:

In the near future, under the present system, the great body of their lands—all except the small homesteads reserved—will be subject to sale without any restrictions whatever. If this policy is not changed the lands will be largely taken by speculators, and these Indians will be speedily stripped of their comfortable and sufficient heritage to become a charge indefinitely upon the revenues of the Government.

The Secretary suggested the propriety and necessity for a strong man, well equipped in every way, to take charge of the business in Indian Territory. It is a difficult task and requires as good talent as there is in the country. A commission is too cumbersome for effective work. The Commission to the Five Civilized Tribes consists of five members, although there are only three now in office.

Mr. BEVERIDGE. The Senator's amendment proposes to have a superintendent take the place of the Commission?

Mr. STEWART. Yes; with jurisdiction over many matters over which the Commission has no control.

Mr. BEVERIDGE. And it is proposed to give this superintendent judicial powers?

Mr. STEWART. It is.

Mr. BEVERIDGE. Are those same powers given to the same officer and is the same officer provided for in the Secretary's bill?

Mr. STEWART. Yes. I go a little further than the Secretary. I provide how the subordinates of the superintendent shall be appointed.

Mr. BEVERIDGE. But in respect to the superintendent himself and his general duties and powers your amendment is the same as the provision in the Secretary's bill?

Mr. STEWART. Under the bill proposed by the Secretary the superintendent has exclusive power in some cases, whereas by my amendment he is required to use the power of the courts and some matters are to be referred by him to the Attorney-General. These modifications of the Secretary's plan were introduced in my amendment after discussion in the Committee on Indian Affairs, where it was suggested by several members of the committee that conferring certain powers upon the superintendent might be construed as a denial of due process of law in certain cases. The Secretary proposes a salary of only \$3,000 a year for the superintendent. My amendment proposes \$15,000. In my opinion it will be very difficult to find

#### A PERSON COMPETENT TO DISCHARGE THE DUTIES

of superintendent for a less sum than \$15,000. It may be said that it is more than Cabinet officers receive, but he will have more to do than any Cabinet officer and is to reside in the Territory without the conveniences furnished at the capital of the nation. By the Secretary's bill the attorney is to receive \$5,000. I propose \$10,000 because the questions with regard to which he must give advice are new, difficult, and important and the highest talent is required. By the Secretary's bill the attorney is placed in the Department of the Interior; I propose to have him appointed in the Department of Justice, which seems to me will be more in accordance with the orderly transaction of business.



Mr. BEVERIDGE. You put the whole of your amendment, so far as this provision is concerned, into one sentence, by saying that the attorney is practically the legal arm of the superintendent?

Mr. STEWART. Yes.

Mr. BEVERIDGE. That is the whole of it?

Mr. STEWART. Yes. The Constitution authorizes the appointment of officers to be made by the President, by the heads of Departments, and by the courts. It is therefore competent to lodge the appointment of subordinate officers, whether their duties be administrative, judicial, or ministerial, in the Secretary of the Interior. I would have been glad to have named every officer and prescribed his duties, but was unable to determine what officers would be necessary to discharge all the duties under the jurisdiction conferred upon the superintendent.

The language of the amendment providing for the appointment by the Secretary of the Interior of these subordinate officers is as follows:

And the Secretary of the Interior shall appoint, on the recommendation of the superintendent, such officers and assistants as may be necessary to aid the superintendent in the conduct and management of the affairs under his jurisdiction, and the said Secretary shall fix the compensation of such officers and assistants and prescribe bonds to be given by such of them as ought in his opinion to be required to give bonds.

There will be persons who will occupy the position of probate judges, to wind up estates, and some of them will necessarily have some judicial functions in that line.

That said superintendent shall have jurisdiction of all matters and shall perform all duties vested in, conferred upon, and to be performed by the Commission to the Five Civilized Tribes under existing laws in the Indian Territory.

The jurisdiction at present exercised by the Commission to the Five Civilized Tribes is conferred, among other matters, upon the superintendent.

It will require one man's whole time to supervise allotments. The Commission to the Five Civilized Tribes will go out of office on the 30th of June next and the Commission will then be dissolved, but their work will not then be completed—the allotments will not have been made, besides there is a vast number of contested cases. It is asserted that in nearly every case where an Indian is fortunate enough to have good land allotted to him some speculator

#### INDUCES SOME OTHER INDIAN TO FILE A CONTEST.

It will take much labor and patience to settle these contests in a reasonable time. By far the larger part of the choice land in Indian Territory is already leased to speculators who are engaged in the business of obtaining leases from Indians to sublet for profit. These leases ought to be investigated and where fraudulent should be set aside. The following is the provision of my amendment on that subject:

And said superintendent shall investigate, or cause to be investigated, all leases and contracts relating to allotted lands in the Indian Territory, and, if in his opinion the needs of justice require it, he shall institute proceedings in the proper United States court to set the same aside, and such proceedings shall have precedence over all other civil business, and the court shall render judgment setting aside such contracts or leases in all cases where there was fraud, undue influence, or inadequate consideration, which judgment shall be final.

This jurisdiction is conferred by the bill of the Secretary of the Interior upon the superintendent without requiring him to go into court.

#### THAT MAY RAISE SERIOUS QUESTIONS OF PERSONAL RIGHTS.

Contracts have been entered into, and under them there may be vested rights. Where questions of the rights of property arise a judicial determination of some kind is necessary. It is true the superintendent might, and probably will, exercise powers judicial or quasi judicial, but I have preferred to strip the bill of every questionable power that might be conferred upon him.

The amendment also confers upon the superintendent and the officers under him important probate jurisdiction, as follows:

And said superintendent and such officers as he may designate shall also have jurisdiction of the estates of all deceased Indians and freedmen and of all minor and insane Indians, and such other Indians and freedmen in the Indian Territory as are incompetent to manage their own affairs.

Under the Arkansas law, which is repealed in express terms by my amendment, it is claimed that a title derived through the court by proceedings under that law becomes an absolute title, and that the Government has no further control over it. Besides, jurisdiction is taken under that law of all minor Indians, no matter how competent their parents may be, for the purpose of securing their allotments. The speculators want to secure the allotments of the minor Indians so as to get leases on their allotments, and, unfortunately, they have organized a large number of trust companies that are striving to be guardians of minor Indians in order to get control of their property and take it away from them.

The superintendent is given power to remove executors, administrators, and guardians, and take full charge of minors and the estates of deceased Indians. The language of the amendment is:

And the said superintendent shall have power to remove any person appointed under the provisions of this act. He shall also have power to remove any executor or administrator of the estate of any deceased Indian or freedman, and also to remove any guardian of a minor or other Indian or freedman incompetent to manage his own affairs, and to revoke any power of attorney granted by such executor, administrator, or guardian.

It is alleged that these administrators and guardians are in the habit of issuing powers of attorney to trust companies and others to manage the estates of minors for the manifest object of controlling the property of their wards, and it is suggested that many of the officers and corporations intrusted with these delicate duties engage in the business for personal gain.

#### IT IS PROPOSED TO HAVE COMPETENT PERSONS

appointed in the place of the unfaithful, who shall be responsible to the superintendent and whose official acts shall be under the latter's inspection.

The suggestion that the titles to the lands of deceased Indians and also of minor children have been alienated under pretended forms of law to third parties, should certainly be investigated, and my amendment provides in that respect as follows:

He shall also investigate all proceedings under which the estate of any deceased Indian or freedman has been sold, disposed of, or incumbered in any way whatsoever and report the result of his investigation to the Attorney-General of the United States, who is hereby authorized to take such proceedings as he may deem necessary in that behalf.

If they have sold out the estates by their sham administration under the provision of the Arkansas law, which is intended for white people, it is made the duty of the superintendent to investigate that and to report to the Attorney-General for such proceedings as may be necessary.

In all matters under the jurisdiction of the superintendent his decision shall be final.

We have not placed anything under his jurisdiction except where it ought to be final, because where there is any question about it we have provided in this amendment for referring it to the court or some other authority. Consequently to avoid vexatious litigation the amendment provides:

That no Federal, State, Territorial, or other court shall have jurisdiction to interfere in any manner whatever with the acts, proceedings, or decisions of the superintendent, or of any officer or person acting by his authority under this act by any writ, process, order, or proceedings of any nature.

The swarm of attorneys there would make an effort to enjoin everything, and although they would not have any right to do it, it would be a year or two before the matter was disposed of. We do not want it tangled up by the efforts of speculators. Consequently we make it clear that the court shall not have jurisdiction.

Mr. DILLINGHAM. Will the Senator allow me a question?

Mr. STEWART. Certainly.

Mr. DILLINGHAM. It would appear from the Senator's statement and from the reading of the amendment that courts of probate are abolished and the superintendent will exercise all of the duties of the court of probate.

Mr. STEWART. So far as I am concerned, I am very anxious to abolish the Arkansas court of probate in as far as it relates to the Indians.

Mr. DILLINGHAM. And then, that the findings of the superintendent shall be final on questions of fact?

Mr. STEWART. Yes.

Mr. DILLINGHAM. And that he shall not be interfered with by injunction?

Mr. STEWART. Certainly not.

Mr. DILLINGHAM. I was not sure that I understood the provision of the section.

Mr. STEWART. That was the intention, because, as I will show later on, the superintendent must have a clear field or he can not do anything effective.

I wish now to state what I found in the Indian Territory. I found a number of men, though not a very large number, engaged in the occupation of dealing and trading in Indians.

It will be seen by the Secretary's letter, and also by the statutes to which I have referred, that the Indians have a right to lease their lands for five years. The Indian trader, the man who trades in Indians, collects thirty or forty helpless Indians and trades them.

There was great pressure to bring the Mississippi Choctaws to that country. I never understood why it was until I visited the Territory. The lands are all leased, or there are pretended leases of all the good agricultural land in the Territory. There is not much authority for them, but the cattlemen got possession

of the lands long ago, and they have handed them down and held possession.

A MAN WILL TAKE THIRTY OR FORTY INDIANS to a person in possession of 30,000 or 40,000 acres of land, or any given quantity of land, and he will propose to sell the Indians to him. If they can agree upon a bargain, the Indians are taken upon and shown the land, and they are told "you take this for your allotment." The Indians like the land and agree to it. The speculator takes the Indians to the land office and has the land allotted to them. The Indians, without such aid, can not get on those lands; not that any officer is particularly responsible for it, but because the speculators will not allow it. The Indians can not pick out allotments. That is absurd. The man who wants to lease will take them there. Then he will take a lease from them for five years for a nominal sum.

That was called to my attention at Tishomingo. I was talking to some Indians there and was telling them of the importance of adopting civilized ways and educating their children, etc., and they asked me some questions. One Indian, a very good looking man, got up and said

THE COURTS HAD TAKEN HIS CHILDREN AWAY FROM HIM, that they had taken away their property, that they had appointed a guardian, while he was perfectly competent to take care of them, and he wanted to know under what law it had been done. I told him I was not familiar with it; that it must be under some law of Arkansas, or it was an act of usurpation; that I did not understand it. He thought it was very hard.

While this colloquy was going on, a man by the name of Cobb, who had formerly been in the Indian service, a very bright man apparently, said he wanted to ask a question. I said "Very well." He asked me some irrelevant question to which he did not expect an answer. Then he said that in the last nine months he had acquired 120,000 acres of land by leases from the Indians, and he would like to see the Secretary of the Interior or Congress get it away from him in nine years. I simply replied that I was sorry for the Territory if that business was going on.

That evening under my window, after I had gone to bed, a difficulty occurred among several men. They were abusing Cobb for having told. "Now," they said, "you will get us all into trouble," and it resulted in a fight. It was so dark I could hardly see how the fight came out, but they were complaining of Cobb for having told about his leases. I afterwards ascertained that leasing in large quantities was pretty general.

You can readily see

THE ADVANTAGE THE MAN IN POSSESSION WOULD HAVE.

In five years, if leasing goes on, and in some cases in less than five years, the Indians will have a right to sell. When the Indian comes to collect his rent, which is a small sum, probably thirty to fifty dollars for land that would rent for a thousand, the lessees always have him sign another lease. The Indians are in the habit—I do not know that they always do it—of signing another lease for five years. The Indian will sign the lease and get his money. They will finally get the Indian to sign a deed in the same way, and if this thing stands as it does, all this land will fall into the hands of a very few men and be leased out by them.

Good settlers do not like to go into a country and take leases under such circumstances. They do not like to live in a community where nobody owns his land, which is bound to be the result in the Indian Territory if nothing is done to stop leasing.

THIS LEASING SYSTEM IS A MOST TERRIBLE ONE.

I do not believe in it at all. I do not think the Indians ever should have leased their lands. This amendment provides that they shall make no more leases and shall only sell in the mode provided in the amendment. They are allowed to sell their land. They are not required to sell it, however. They may sell it or they may keep what is allotted to them.

Mr. CLAY. Mr. President—

The PRESIDING OFFICER (Mr. HOPKINS in the chair). Does the Senator from Nevada yield to the Senator from Georgia?

Mr. STEWART. Certainly.

Mr. CLAY. If the Senator will permit me, he is chairman of the Committee on Indian Affairs, I understand—

Mr. STEWART. Yes.

Mr. CLAY. And is thoroughly familiar with all the different treaties we have with the Indians.

Mr. STEWART. Not with all of them, but with some of them.

Mr. CLAY. I have been reading the House minority report in regard to the union of Oklahoma and Indian Territory, and I find this language used by the minority:

The United States, in order to induce the Five Civilized Indian Tribes to sell their lands east of the Mississippi River and remove to the land now embracing the Indian Territory, entered into a number of treaties with the Five Civilized Tribes, in which the United States bound them-

selves with great formality, and upon a formal vote of the Senate of the United States, with the approval of the President, contracting that they would not at any future time establish over the Indians of Indian Territory any State or Territorial government without their consent, as follows:

"CHEROKEES.

"ART. 5. The United States hereby covenants and agrees that the lands ceded to the Cherokee Nation in the foregoing article shall in no future time, without their consent, be included within the territorial limits or jurisdiction of any State or Territory." (Revised Indian Treaties, p. 69.)

Similar treaties with the other four tribes were also made.

I have been unable to find any treaties that abrogate these treaties, and I am unable to find any law which would abrogate them by implication. I should like to know what the Senator's view is in regard to whether those treaties have been abrogated.

Mr. STEWART. Yes; they have been abrogated.

Mr. NELSON. If the Senator from Nevada will allow me, I desire to state to the Senator from Georgia that these old treaties to which the House committee refer have been practically abrogated by subsequent treaties and negotiations made with the Indians under the so-called "Curtis Act" of 1898. That act and the treaties which were entered into under it and the subsequent act ratifying those treaties have practically repealed and taken the place of those old treaties to which he refers.

Mr. CLAY. I would ask the Senator—

Mr. NELSON. The Senator will allow me?

Mr. CLAY. Certainly.

Mr. NELSON. The Senator will find a history of this matter and of these treaties, as well as the decisions of the court bearing upon it, in the remarks I made two years ago, on pages 22, 24, and 25, where I have gone in great detail into this matter.

Mr. STEWART. The result is understood thoroughly. The Indians agreed to the allotment of their lands. The treaties were made with them by the Dawes Commission, and there have been subsequent treaties made, and they have all agreed that the tribal relation shall be dissolved on the 4th of March, 1906.

Mr. CLAY. Then the Senator thinks that the simple fact that the Indians have agreed to have their lands allotted and the tribal relations dissolved would abrogate the treaty providing that their territory should not be formed into a State hereafter without their consent?

Mr. STEWART. Absolutely, because they are individuals and no longer in tribal relation.

Mr. CLAY. I think it is exceedingly doubtful.

Mr. STEWART. The United States has a right to legislate for all white and Indian individuals in the United States. Congress further has the right, according to my view of the it has the power to do it. It is the duty of the United States to take care of the Indians, because they have agreed that their tribal relations shall be dissolved, and Congress must provide some government for them. It has become a duty to do so since the Indians have agreed to the dissolution of their tribal relation.

Mr. BEVERIDGE. In other words, the treaty was between this Government and the tribes.

Mr. STEWART. Yes.

Mr. BEVERIDGE. The existence of this entity, called "the tribes," was a matter among its members. These members agreed to the dissolution of the tribal relation, and the entity with which the treaty was made went out of existence. Does not the Senator from Georgia see that any agreement made with an entity which itself went out of existence of its own volition of course ceases by that very act? Otherwise before anything could ever be done in the history of the world that involved these Indians who ceased to be a tribe and became individuals, you would have to get the consent of each individual one of them, which of course is unthinkable.

Mr. STEWART. They have done that in some cases by vote.

Mr. BEVERIDGE. But not in the case the Senator referred to.

Mr. STEWART. No.

Mr. CLAY. These lands have not yet been allotted. The allotment will not be completed before 1906.

Mr. BEVERIDGE. My remarks were not directed to that phase of it, but to that phase of the Senator's question which forms its second part, which was that treaties inhibited the joining of their lands into any State government without their consent.

Mr. CLAY. Yes.

Mr. BEVERIDGE. The Senator from Nevada answered that by saying the tribal relations had been abolished, and then I asked the Senator if it did not become perfectly apparent to him that it abolished any agreement of that kind.

Mr. CLAY. It might do it by implication.

Mr. BEVERIDGE. Absolutely.

Mr. CLAY. That act has not been carried out. The allotment will not be completed until 1906.



Mr. BEVERIDGE. The Senator asked two questions. The one involved land, and the other involved the consent of the tribes to incorporating their territory into a State. That is the second portion, and it is to that portion of the Senator's question that I am addressing this interruption.

Mr. CLAY. I understand the Senator to say, then, that there is no direct legislation or treaty abrogating the treaties to which I have referred. You simply take into consideration the Curtis Act, which provides for the allotment of these lands, and then when they are allotted, you say by implication the Indians become citizens—

Mr. BEVERIDGE. No.

Mr. CLAY. And that they consent that their tribal relations shall be dissolved, and by implication the treaties are abrogated?

Mr. STEWART. They have consented by these treaties to become individuals the same as you and I.

Mr. BEVERIDGE. Certainly.

Mr. STEWART. They have voted to become individuals, and now it becomes the duty of the United States to provide a government for them.

Mr. BEVERIDGE. Before that they were not individuals. Before that they were portions of an entity called a tribe, with which entity this Government made the treaty. As to whether that entity should continue of course was a question for its members. Its members ceased to be a tribe, and became individuals of their own volition. Is that a correct statement?

Mr. STEWART. That is a correct statement, and that is the fact. Before this law takes effect the tribes will all be out of existence. The State is not to be admitted until after the tribal relation is dissolved under the law.

Mr. BEVERIDGE. Exactly; and in the original bill that fact was taken into consideration and a date was fixed far enough ahead—

Mr. CLAY. You mean that the statehood bill will not take effect until 1906?

Mr. BEVERIDGE. Not at all.

Mr. STEWART. Here is

#### THE VITAL PART OF THIS AMENDMENT.

Under existing laws it is impossible for settlers to acquire land in the Territory. There is no basis for homes, and there are no homes on the farming lands. If you go to the Indian Territory you will see on these leased lands a little hut, where there is a tenant. No interest is taken in the country, whereas such a country as that should be dotted with homes of industrious, enterprising citizens, with schools and everything, and it would be if they could get the land. But it is in the hands now of these lessees, and they sublease it. There was a provision in the last Indian appropriation act to which the Senator from Minnesota has alluded allowing the lands to be sold under certain regulations by the Secretary of the Interior, but the purchaser had to obtain the consent of this man and that man and be supervised by the agent, etc., and before the purchaser could get to the land it would be covered by four or five leases and he would have lawsuits on his hands. They cited me to half a dozen farmers from the Middle West who tried to get land under the existing law and who returned home without investing. No land can be acquired under the present law. You will have to wipe out the general leasing system before you can do anything there.

I read again from the amendment to show how we propose to allow honest settlers to acquire land in the Indian Territory:

That the superintendent of Indian Territory affairs may adopt the existing recording districts with such modifications as he may deem proper, and such person shall be recorder in each of such districts as the superintendent may designate, and in the sale of allotted lands the recorder in each district shall be register. The receiver shall be such officer as may be designated by the superintendent. Both the register and receiver shall give such bonds for the faithful discharge of their duties as may be prescribed by the Secretary of the Interior. It shall be the duty of the superintendent—

Here are some of the safeguards that I do not find in the bill prepared by the Secretary—

It shall be the duty of the superintendent to appraise the allotted lands in the several recording districts according to their reasonable value, and notify, from time to time, the register and receiver in the several recording districts of such appraisements.

That is a basis for the sale. If they did not have that, they might get an Indian drunk and get the land for a trifle.

That the reservation of homesteads to the extent of 40 acres of land to each Indian and freedman allottee in the Indian Territory shall remain forever a permanent home for such Indian or freedman, and shall not be sold, leased, or encumbered in any way whatever.

Now, under existing law the homestead is reserved for twenty-one years, but the average Indian will be no better off at the end of twenty-one years than he is now, and if there is any desire to let the Indian dispose of it before that time it can be done by future legislation.

Mr. NELSON. Will the Senator yield to me for a moment?

Mr. STEWART. Certainly.

Mr. NELSON. I desire to call his attention to this proviso in the first section of the pending bill, and I desire also to call the attention of the Senator from Georgia to it:

*Provided, That nothing contained in the said constitution shall be construed to limit or impair the rights of person or property pertaining to the Indians of said Territories (so long as such rights shall remain unextinguished)*—

Mr. STEWART. I wish the Senator would refrain until I state what is the plan of the amendment and explain it a little. I want to go back now to the sale of lands.

Mr. NELSON. I was simply desiring to call the attention of the Senator to the fact that all rights with respect to controlling and administering the Indians are reserved.

Mr. STEWART. In your bill?

Mr. NELSON. In the bill.

Mr. STEWART. Yes, and they ought to be.

Mr. KEAN. They are.

Mr. STEWART. They are and they ought to be, but if you do not take any action and your bill is passed and five years elapse

THE INDIAN WILL HAVE NO RIGHTS TO BE PROTECTED.

Their rights will all be gone by that time. I am explaining that there will then be nothing belonging to the Indians. It will all be leased and then there will be deeds taken and the Indians will have nothing. They will have no rights remaining to be protected. I want to preserve some of their rights.

The amendment differs from the existing law inasmuch as it declares that the homestead shall not be sold at all. The Indians ought to have homes reserved for them. It may be that in the future, if they become competent to manage their own affairs, other legislation will be had allowing them to sell or to dispose of their lands the same as other people.

We provide that the Indians may sell their surplus lands if they desire to do so. The amendment reads:

All allotted Indian and freedman lands, excluding homesteads, in the Indian Territory shall be subject to sale under the provisions of this act, and not otherwise.

That any bona fide settler, who is a citizen of the United States, or who has declared his intention to become such, may become a purchaser of the lands allotted to any Indian or freedman, not exceeding 160 acres, at not less than its appraised value, and pay for the same in five annual installments, with interest at the rate of 6 per cent per annum on the deferred payments, but shall not be allowed to pay for such land otherwise or in a longer or shorter period.

Now, in the first place, the Indian can make his own bargain, but he can not sell the land for less than the appraised value. That will protect the Indian from the speculator, from everybody, even from the settler. The settler makes a bargain with the Indian. If the Indian can get him to pay more than the appraised value, very well. The settler must first contract with the Indian. It is then provided that—

Such purchaser shall present to the register an application of the allottee, if an adult, or an application of a guardian in his behalf, if a minor or an incompetent person, for the sale of his or her allotted lands, except the homestead, and shall pay to the receiver of the district the first annual installment, which shall thereupon be paid to the Indian or his guardian.

He has to deal with the Indian. We are not taking the land away from the Indian against his consent at all. He makes his own contract. He can not sell for less than the appraised value, however. That is for his protection.

Whereupon such purchaser shall receive from the register a certificate of entry, a duplicate of which shall be transmitted to the Secretary of the Interior. The said purchaser shall within thirty days thereafter enter upon the land and reside thereon continuously for five years, build thereon a house costing at least \$150, put under cultivation not less than 20 acres, and pay to the receiver the remaining four installments.

Then the settler proves this up as they do in any land case, and it comes here and a patent is issued.

Then the amendment goes on to provide that the settler must stay on the land, which takes it out of the hands of speculators.

If any purchaser shall fail or refuse to make payment of any installment of the purchase money for thirty days after it shall have become due, or shall fail to make settlement and establish residence upon the land for a period of three months from the date of the contract of sale, or shall remove from and abandon said land for a period of three months, such contract shall thereby terminate, and the superintendent of Indian Territory affairs is hereby given authority and jurisdiction in any such case to summarily eject from the land such defaulting purchaser and put the Indian allottee or his guardian in possession thereof, in which event the allottee shall take the land free from any lien or liability for any taxes which may have been assessed against the same, or for any other obligation whatever.

So that speculators, the class of men who do not intend to make the land their home and who have now practically the whole country under lease, can not get any land under this arrangement.

*Provided, however, That in case of the death of the applicant before he has completed the payments, residence, and improvements required his heirs or legal representatives may be substituted in his place as purchasers. After full compliance with the provisions of this act the purchaser may make proof to the register and receiver of his payment, residence, and improvement, as hereinbefore required, under such regulations as the Secretary of the Interior may prescribe. The register and receiver shall report the facts to the Secretary of the Interior,*

together with their conclusions; and if, in the opinion of the Secretary of the Interior, the purchaser has complied with the statute, a patent conveying full title shall be issued to such purchaser by the Secretary of the Interior in pursuance of the application of the Indian or freedman, or of the guardian of such Indian or freedman. All moneys received by the several receivers, except the first payment, shall be paid to the superintendent, who shall pay the same over to the Indians whose lands have been taken, under such regulations as the Secretary of the Interior may prescribe.

It may be that some supervision should be had over the Indians. An Indian may be intemperate or incompetent, and the money ought to be given to him in small amounts,

SO THAT HE WILL NOT WASTE IT.

That keeps control over it, exercising a jurisdiction for the preservation of the rights of the Indian.

Now, here is another provision to meet existing conditions there:

That no sale, agreement, or understanding, express or implied, made by any Indian or freedman concerning the incumbrance or future disposition of his allotted land shall have any binding force or effect, nor shall any such agreement or understanding be offered in evidence in any court for any purpose whatever.

That refers to making agreements with the Indians. The lessees have the Indians all tied up. The agreements are not binding now, but I am told the Indians believe they are all tied up. Most of the leases are in writing. The Indians may feel bound by them. People take advantage of the Indian and get his property in that way.

The amendment proceeds:

That no lease or sale of Indian or freedman lands in the Indian Territory shall be made by any Indian or freedman, or his guardian, except as in this act provided; and all laws authorizing the sale or removal of the restrictions upon the alienation of lands of allottees of any of the Five Civilized Tribes, and all laws inconsistent with any of the provisions of this act, are hereby repealed.

Now, in the last Indian appropriation bill we removed the restrictions to sell. While in the Territory I saw that speculators were taking advantage of the Indian. Leasing is very bad. It helped the Cobbs to get their hundreds of thousands of acres without consideration. They get possession of the land and when the Indian is free so that he can sell they will make him believe that the deed is a mere receipt for money, and pay him a few dollars and take his land.

Now, here is a matter to which I call the attention of the Senator from Vermont [Mr. DILLINGHAM]:

That all laws of the State of Arkansas, and all other laws, rules, and regulations affecting the estates of deceased Indians or freedmen, or providing for the appointment of guardians for minor Indians or freedmen or of Indians and freedmen incompetent to manage their own affairs, now in force in the Indian Territory are hereby repealed, and all matters connected therewith shall be under the jurisdiction of the superintendent of Indian Territory affairs and the officers designated by him, and all proceedings with regard thereto shall be conducted by said superintendent under such regulations as the Attorney-General may prescribe.

The Attorney-General will have to provide a code which will be fitted to the settlement of those estates and as to the guardians of the children. He can do it. The laws that are ordinarily applicable to white people are not applicable to the Indian.

The Attorney-General will consider that matter, and being familiar with matters of probate he can make rules and regulations which can be executed by the officers who will be appointed under this bill, and we can

#### STOP THE SCANDAL OF THE TRUST COMPANIES

which become guardians for children with a view of getting their property and giving it to somebody else. The trust company gets an appointment by the court of a guardian for a whole lot of Indian children. They get control of the land allotted to the children, then they lease it, and Cobb gets possession, and Cobb holds it for the next five years, and the guardian will probably make a deed to Cobb or some other interested party at the expiration of the five years. This is the way they expect to get very rich.

I do not believe it is safe to pass this bill unless it has a provision in it for the protection of the Indians. If you will provide so that white men can get in there and make homes you will have people enough in that Territory, for it is, I think,

#### THE LOVELIEST SECTION OF COUNTRY

that has ever been seen by mortal man. In resources it surpasses any other part of the United States. It abounds in oil, asphalt, coal, and iron. It is the finest fruit land imaginable. It is equal to the best of California and abounds in fruits of all description. It produces cotton, and everything that is produced in the Temperate Zone. The finest cotton I ever saw grows there. I was told by experts in raising cotton that there is no other place in the United States where such fine cotton grows. On the Arkansas bottoms I saw five or six hundred acres, or a thousand acres perhaps, of potatoes in one place. They raise two crops a year. They were as fine potatoes as can be raised in Colorado or anywhere else, and they come into the markets almost as early as Bermuda potatoes.

The men who have possession of that land rent it out for as high as \$10 an acre a year. There is a great deal of land rented as high as \$10 a year, but that

#### LAND IS NOT IN THE POSSESSION OF THE INDIANS.

The towns are looking very well, but there are no country homes. Country homes and schoolhouses are unknown and always will be unknown until you can afford a chance for settlers to get there.

What I plead for is that we shall open the land to settlers under conditions that will protect the Indians and banish from the Territory the hordes of speculators who will practically make it uninhabitable for honest men. Honest men will not settle in such a country. The miserable people who will rent land from speculators will live in squalor. Make it possible for settlers to acquire land and make homes and it will be the paradise of the United States. There is nothing like it elsewhere. Oklahoma and the Indian Territory in twenty years will be

#### A RIVAL OF IOWA, ILLINOIS,

or any of the great States in population and wealth. That is bound to be the case if you can get the land in the hands of the actual settlers.

What makes those States in the West great is because the people own the land on which they live. Under your preemption and homestead laws they were sold to settlers; they could not be sold to anybody else; and although they have been often subverted and frauds have been committed, still the main purpose of those laws has been carried out. If you go through the great Mississippi Valley and the West and observe the prosperous homes everywhere you can appreciate the result of people owning their own land.

But no country on earth where there was a tenant system had any such exhibition of comfort and wealth and homes. A republican government can not exist on rented land. It is not in the nature of things. If Cob could acquire 120,000 acres of that rich land and keep it and did not squander it, he would be a multimillionaire; he would be a nabob; he would be too much of a man to be controlled by the ordinary laws and regulations of our communities in the West. We do not want any such arrangement as that, and there is no provision in the pending bill for any other. In five years all this land will go into the hands of those speculators, and

#### THE INDIANS WILL HAVE NOTHING.

I have seen enough to be satisfied that the Indians will lose their lands, and will become a charge, as the Secretary of the Interior says, upon the Government. They will be worse than that. With the consciousness of having been robbed of their territory, they will be bad criminals. They are vigorous Indians, and they have some of the best ideas of civilization, and if you take the land away from them and provide no homes for them, the bad Indian never will be civilized.

It is said the Indians will get more for the land by leasing it than by selling it. They get only a paltry sum by leasing the land, which they spend for whisky or something else, and they live in idleness. If you let the white settlers have the land and let each Indian have 40 acres with a white man on each side cultivating it, he will have this example before his eyes. Many of the Indians, I believe, under those circumstances would become civilized. I have seen them in Nevada, where the United States Government gave them nothing, and they would have a nice little farm to work and become civilized. If they had been excluded from the whites they would have done nothing.

#### THE ONLY WAY YOU CAN CIVILIZE THE INDIANS

is to bring them in contact with the whites and surround them with all the appliances and advantages of civilization. There is no reason why many of them should not become civilized under those circumstances. But as long as you put them on reservations, keep them to themselves, and let them lease their land and live on lease money, they will make no progress whatever. The only way to help the Indians to progress is to give them small homesteads where they will have a place to go, and not congregate in cities. They would then have a home to go to and would not have to be put in jail. If they should loaf about the towns the magistrates would say, "If you are caught around here any more I will put you in jail." They will have a home to go to, and pretty soon they will get in the habit of going home and making a living.

I believe in regard to all our Indian reservations there ought to be a like provision incorporated, allowing the Indians to sell all their land except their homesteads to actual settlers and let actual settlers occupy the reservations. Nobody ever knew a tribe of Indians to become civilized on a reservation. It is only those who live off of a reservation and mingle with the whites who become civilized. When they are on a reservation and we allow the reservation land to be leased they do not live on it.



This system ought to be changed, and I hope that those having charge of the Statehood bill will consider this amendment carefully, and if they agree with me that it is proper in its provisions that they will let it go on the bill. If they will do that, in five years from now the Indian Territory will be

#### ONE OF THE MOST PROSPEROUS PLACES

in the United States, for I tell you, when the young men from Ohio, Illinois, Indiana, Iowa, Missouri, Kansas, and Nebraska go there and see those lands they will take 80 or 160 acres and pay a large price for it. If a man has to pay \$10 or \$20 an acre, he can easily pay for it in five years by his own labor. He can easily pay for it if he does not take too much land, because the products are such—the cotton, potatoes, and everything they raise is so plentiful and prolific—that it is readily done in that climate.

Mr. TELLER. Under the bill, if we pass it, what will the people who take the Indian land pay for it?

Mr. STEWART. They will pay whatever the Indian asks, providing they do not pay less than the appraised value. It provides that the land shall be appraised so that they can not buy it for less than the appraised value.

Mr. TELLER. I ask the Senator what would be the effect under the bill reported from the committee, not under his amendment.

Mr. STEWART. Oh, the committee simply leaves the matter open.

Mr. BEVERIDGE. The land is to be appraised, under the provisions of the bill, as the legislature may prescribe.

Mr. TELLER. That is, a legislature composed of white men?

Mr. BEVERIDGE. It may be or it may not be.

Mr. TELLER. Oh, it must be.

Mr. BEVERIDGE. Not altogether.

Mr. STEWART. There is no use of appraising it unless, after it is appraised, there is some mode by which a settler can get in.

Mr. BEVERIDGE. Under the Senator's amendment there could be no question about it.

Mr. STEWART. There could be no question about it. The settler could get it appraised and it would be much better for the Indians to have neighbors who were civilized and harmless. It is a mistake to suppose that people in the West are hostile to the Indians. They are friendly to the Indians and want to help them.

#### WHEREVER THE INDIANS COME IN CONTACT WITH THE WHITES

they are treated in the most friendly manner, and they are given employment whenever they desire it and when willing to work. In my State nearly all the Indians work with the whites, some of them on farms, some of them work for themselves, others cut wood, assort ore, and herd stock. They receive contracts and they are treated with great consideration by the whites. So it will be everywhere; when you throw responsibility upon the Indians and treat them with confidence you will see them developing very rapidly.

I was up in Victoria, British Columbia, some years ago and I was astonished at the progress the Indians made there. I found them taking contracts, driving carts, some of them in stores as porters and all that, and mixing with the whole community. The same tribe are now on our side and they have not mixed with the whites.

Mr. TELLER. What tribe is that?

Mr. STEWART. I have forgotten the name. It is the tribe you will find at Seattle and roundabouts. It is one of those northwestern tribes. I recollect that the same tribe came down on our side, where the Indians were doing nothing and living on a reservation, and were supported. Nothing makes an Indian or anyone so worthless as to feed him without work.

Mr. BEVERIDGE. Nothing makes him nothing.

Mr. STEWART. Nothing makes him nothing.

#### CIVILIZATION COMES FROM WANT.

Hunger is the first thought. The savage had been in the habit of supplying himself in his crude way. He took the skins of animals and made clothing, and some of them even made fine blankets. They supplied their wants when they had the whole country to roam over. But it became their fate to have a different condition of living. White men came and enjoyed the land, and their hunting grounds were occupied. The only way for them to live was in common. It is idle to talk about having hunting grounds for the Indians again in this country. That can not be. They can not live in that way. They must now live as tillers of the soil live. They must live as white men live. They must live as men in civilized life, and they must supply their wants by labor, as other men do. If you give them an example, as would be the case under this amendment, and show them how they can supply their wants, and not feed them,

there would be bona fide settlers cultivating the soil, and you would see beautiful homes and cottages all around, and the Indian would have the example of thrift and civilization. He would want things which belong to a civilized community, because white men had them. They are very imitative. They want to do as white men do; and if they see white men have houses next to them and all about in the country, they will want them. The white men will help them build houses. There will be no conflict whatever.

#### IF YOU WILL GIVE THE INDIANS A CHANCE

and protect them in their right, let them sell land to white men and be given full consideration, so as not to cheat them; let them live on their homesteads that they can not sell; give them that opportunity and they will become good citizens. I believe there are elements in that country, from what I saw there, for a higher civilization of the Indian than we have ever seen on the American continent. See what the Indians are doing south of us! Eight-tenths of all the people south of the United States—in Mexico and South America—are Indians, and they are pursuing the same avocations that white men follow. They were treated differently from the beginning, but it disproves the notion that Indians will not become civilized when the opportunity exists. There they were not fed.

I think that the system of feeding Indians in this country has been all wrong. The system which has grown up under the name of benevolence has been a great crime, and has done more to exterminate the Indian than all the Indian wars we have had on the continent.

#### I REFER TO THE SYSTEM OF FEEDING THEM,

of nursing them, or giving them something they did not earn. If we had gone forth in that country in the West and established farms and told them "Come here and build houses and use all the appliances of civilization; if you can not make a living by hunting come here and work, and we will pay you," and if we had thrown responsibility upon them I believe eight or ten million Indians would have been in the United States to-day who would have been good citizens. It is a mistake to say that they can not be developed into good citizens. They can. They are bright. You see in the Indian Territory those who have had opportunities, who formerly owned slaves. That civilized them, because they had to stay there and attend to the slaves, and you see the effect upon them to-day.

I said here in the Senate some thirty years ago that force, that

#### SLAVERY WAS AT THE BOTTOM OF ALL CIVILIZATION.

This is what happens in barbarous countries. When one man gets stronger than his neighbors and gets a piece of land and goes to work cultivating it, he has got to stay there and make the slaves work. That civilizes him and them. So it goes along until they get to a point where they know something of the rights of man. Savages must be educated in the beginning like children; but if you feed them in idleness they will be good for nothing. If you would put the people in this city on a reservation with soldiers so that they could not get off for two generations, what would they be good for? What would the descendants of your Senators and your President and your Cabinet officers and the Supreme Court be in two or three generations if they were all put on a reservation in the District of Columbia and fed? Would they not be a miserable lot? If civilization can not stand it, if white civilization can be destroyed by this kind of treatment, how much more so will savages be degraded and kept down by isolation and feeding?

Indians will not be civilized by rubbing up against each other—by associating with each other. They must be brought into contact with civilization. No Indians will be civilized by feeding them. They must have the motive to get something to eat. That will make them put forth exertion and they will learn to labor.

Now, I believe that if the amendment I propose can be adopted the Indian Territory will be the best place in the United States in which to live, and I believe that under this provision of homesteading

#### THE VERY BEST YOUNG MEN YOU HAVE WILL GO THERE.

They do not need to have much money to go there. A man with a couple of hundred dollars can buy a nice farm and pay for it easily. Men will rush there as they rushed to Oklahoma when the Cherokee strip was opened. There will be just such a rush repeated if you give people a chance to go to the Territory and get homes. There are many young men in the United States who want a place to make homes and raise families. You see that every time there is opportunity given. Let this opportunity be given and we will have a good State in the one to be formed out of Oklahoma and Indian Territory.

Mr. BEVERIDGE. Mr. President, I do not know whether there is any Senator who desires to speak to-day on the bill. If there is no Senator who desires to proceed at this very moment I ask that the bill may be read for action on the committee amendments.

The PRESIDING OFFICER (Mr. HOPKINS in the chair). The Secretary will state the amendments of the committee in their order.

Mr. TELLER. I do not know that I care to object to that course. I desire to address myself on the same phase of the bill as the Senator from Nevada [Mr. STEWART], as well as on other portions of the bill. Since last Saturday I have not been well enough to do it. I thought yesterday that I might be able to go on to-day.

I do not object to the reading of the amendments. I do not know what the amendments are. I have one that I want to debate somewhat myself before we vote on it.

Mr. BEVERIDGE. Certainly. What is proposed is merely the reading of the committee amendments as in regular course.

The PRESIDING OFFICER. The Secretary will state the first committee amendment.

The SECRETARY. In section 2, page 2, line 17, after the word "and," strike out "ten" and insert "nine;" in the same line, after the word "number," strike out "sixty" and insert "fifty-five;" and in line 19, after the word "and," strike out "fifty" and insert "fifty-four;" so as to read:

That all male persons over the age of 21 years, who are citizens of the United States, or who are members of any Indian nation or tribe in said Indian Territory and Oklahoma, and who have resided within the limits of said proposed State for at least six months next preceding the election, are hereby authorized to vote for and choose delegates to form a constitutional convention for said proposed State; and all persons qualified to vote for said delegates shall be eligible to serve as delegates; and the delegates to form such convention shall be 109 in number, 55 of whom shall be elected by the people of the Territory of Oklahoma and 54 by the people of Indian Territory.

The amendment was agreed to.

Mr. NELSON. I call the attention of the chairman of the committee to the fact that there ought to be another amendment in line 22 to correspond with the others. "Sixty" ought to be stricken out and "fifty-five" inserted.

Mr. BEVERIDGE. That is correct. It is very clearly a verbal omission. In line 22, page 2, section 2, after the word "into," I move to strike out "sixty" and to insert in lieu "fifty-five."

The amendment was agreed to.

Mr. NELSON. I also call attention to line 2, page 3, where the word "fifty" should be "fifty-four."

Mr. BEVERIDGE. That is the same thing. Let the word "fifty" be stricken out and the word "fifty-four" inserted.

The SECRETARY. On page 3, after the word "into," strike out "fifty" and insert "fifty-four."

The PRESIDING OFFICER. Without objection, the amendment will be adopted. The next amendment of the Committee on Territories will be stated.

The SECRETARY. In section 2, page 4, line 8, after the word "by," strike out "a majority vote of" so as to make the clause read:

That the capital of said State shall temporarily be at the city of Guthrie, in the present Territory of Oklahoma, and shall not be changed therefrom previous to A. D. 1910, but the location of said capital may, after said year, be permanently fixed by the electors of said State voting at an election to be provided for by the legislature.

The amendment was agreed to.

The next amendment was, in section 3, on page 5, line 6, after the word "prohibited," to insert:

*Provided*, That the sale, barter, or giving away, except for mechanical, medicinal, or scientific purposes of intoxicating liquors within that part of said State heretofore known as the Indian Territory or other Indian reservations within said State, be prohibited for a period of ten years from the date of admission of said State, and thereafter until after the legislature of said State shall otherwise provide.

The amendment was agreed to.

The next amendment was, on page 6, line 13, after the word "servitude," to strike out—

or on account of any other conditions or qualifications, save and except on account of illiteracy, minority, sex, conviction of felony, mental condition, or residence: *Provided, however*, That any such restrictions shall be made uniform and applicable alike to all citizens.

So as to make the clause read:

Fifth. That said State shall never enact any law restricting or abridging the right of suffrage on account of race, color, or previous condition of servitude.

The amendment was agreed to.

Mr. GORMAN. I suggest to the Senator in charge of the bill that owing to the absence of the Senator from Tennessee [Mr. BATE], who takes a great interest in this matter and who has left the Chamber temporarily, not expecting these amendments to come up, that they be passed over.

Mr. BATE entered the Chamber.

Mr. BEVERIDGE. The Senator from Tennessee is now present.

Mr. GORMAN. I will state to the Senator from Tennessee that I refer to the amendment which has just been stated.

Mr. BEVERIDGE. I will let the amendment go over if the Senator desires.

Mr. BATE. Let us reconsider that particular amendment.

Mr. BEVERIDGE. I am willing that it shall be reconsidered if there is not going to be any discussion on it.

Mr. BATE. There is not going to be just now.

Mr. GORMAN. I suggest to the Senator from Indiana, in view of a conference which we have had about this matter, that the amendment which was just adopted be reconsidered for the moment, so that it may come up in regular order as the Senator from Tennessee suggests.

The PRESIDING OFFICER. Is there objection to the reconsideration of the vote by which the amendment just adopted was agreed to?

Mr. BATE. The amendment adopted on page 5.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. GORMAN. I ask now that the amendment may go over.

Mr. BEVERIDGE. As the Senator from Tennessee [Mr. BATE] is here, and the Senator from Maryland asks that this amendment go over, let the remainder of the bill be read for amendment.

Mr. GORMAN. Let amendments which are not contested be considered as the bill is being read.

Mr. BEVERIDGE. Very good. I do not agree, of course, that unobjected amendments shall not be now considered. We will take them up as we come to them; perhaps I may want a vote on some of them; but let the amendments be read and those upon which there is no controversy we can act upon.

Mr. BATE. I have no objection to acting upon any amendment about which there is no controversy.

Mr. BEVERIDGE. I may want a vote on some of the amendments. I do not want to bind myself. That is all.

Mr. NEWLANDS. I wish to say that I have some amendments which I desire to offer.

Mr. BEVERIDGE. Certainly; but the Senator does not understand that what is being done now is that the bill is being read for committee amendments. Of course, the Senator's amendments can be put in at any time, as can the amendments of any other Senator. This does not preclude any Senator offering an amendment at any time either in the Senate or in Committee of the Whole.

The PRESIDING OFFICER. The next committee amendment will be stated.

The SECRETARY. In section 6, on page 9, line 7, after the words "east of," it is proposed to strike out the words "the ninety-seventh meridian of west longitude."

Mr. BEVERIDGE. The amendment on page 6, I understand, was agreed to.

Mr. BATE. I ask, then, that that amendment be read.

Mr. BEVERIDGE. I refer to the amendment on page 6, striking out all after the word "servitude," in line 13, down to the end of line 17. Let it be read again for the information of the Senator from Tennessee, although it has been agreed to.

The PRESIDING OFFICER. The Secretary will state the amendment referred to.

The SECRETARY. In section 3, on page 6, line 13, after the word "servitude," strike out—

or on account of any other conditions or qualifications, save and except on account of illiteracy, minority, sex, conviction of felony, mental condition, or residence: *Provided, however*, That any such restrictions shall be made uniform and applicable alike to all citizens.

Mr. GORMAN. Now let the clause be read as proposed to be amended.

Mr. BEVERIDGE. There is no objection to that.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

Fifth. That said State shall never enact any law restricting or abridging the right of suffrage on account of race, color, or previous condition of servitude.

The PRESIDING OFFICER. That amendment has already been adopted. The next amendment will be stated.

The next amendment of the Committee on Territories was, in section 6, on page 9, line 7, after the words "east of," to strike out "the ninety-seventh meridian of west longitude" and insert "the range line between ranges 2 and 3 east of the Indian meridian;" so as to make the clause read:

That district No. 4 shall comprise all that territory now constituting the Choctaw Nation and that part of the Chickasaw Nation lying east of the range line between ranges 2 and 3 east of the Indian meridian.



The amendment was agreed to.

The next amendment was, on page 9, line 13, after the words "west of," to strike out "the ninety-seventh meridian of west longitude" and insert "the range line between ranges 2 and 3 east of the Indian meridian;" so as to make the clause read:

That district No. 5 shall comprise the counties of Greer, Roger Mills, Kiowa, Washita, Comanche, Cleveland, and Pottawatomie, and that part of the territory comprising the Chickasaw Nation lying west of the range lines between ranges 2 and 3, east of the Indian meridian.

The amendment was agreed to.

The next amendment was, in section 8, on page 11, line 21, after the word "Oklahoma," to insert "the University Preparatory School;" in line 23, after the word "College," to insert "and the Colored Agricultural Normal University;" and in line 24, after the word "State," to strike out "one-third to each;" so as to read:

SEC. 8. That section 13 in the Cherokee Outlet, the Tonkawa Indian Reservation, and the Pawnee Indian Reservation, reserved by the President of the United States by proclamation issued August 19, 1893, opening to settlement the said lands, and by any act or acts of Congress since said date, and section 13 in all other lands which may be opened to settlement in the Territory of Oklahoma, and all lands heretofore settled in lieu thereof, is hereby reserved and granted to said State for the use and benefit of the University of Oklahoma, the University Preparatory School, the normal schools, and the Agricultural and Mechanical College, and the Colored Agricultural Normal University of said State, the same to be disposed of as the legislature of said State may prescribe.

Mr. BATE. What is the reason for the amendment from line 21 to line 24?

Mr. BEVERIDGE. Those amendments are made necessary by reason of the fact of those schools having been left out by inadvertence. They are educational institutions of the Territory, I will state to the Senator. They are elsewhere in the bill, but were by inadvertence left out here, and therefore they are now inserted.

The amendment was agreed to.

The next amendment of the Committee on Territories was, in section 9, page 12, line 18, after the word "sold," to insert "at public sale in 160-acre tracts or less."

Mr. NELSON. The Senator from Kansas [Mr. LONG] has an amendment to offer to that provision, and so I suggest that it be passed over, as he is not now in the Chamber.

Mr. BEVERIDGE. That is agreeable.

The PRESIDING OFFICER. The amendment will be passed over.

The next amendment of the Committee on Territories was, in section 9, page 12, line 21, after the word "prescribe," to strike out "preference right to purchase being given to the lessee at the time of such sale."

Mr. BEVERIDGE. That may also be passed over.

The PRESIDING OFFICER. The amendment will be passed over.

The next amendment was, in section 10, page 13, line 6, before the word "sold" where it occurs the first time, to strike out "when" and insert "if;" in the same line, after the word "sold" where it occurs the second time, to insert "at public sale in 160-acre tracts or less."

Mr. NELSON. For the same reason as in the other case, I ask that that amendment may be passed over.

Mr. BEVERIDGE. No; but that the amendment immediately following, in lines 9 and 10, be passed over. The amendment of the Senator from Kansas, I understand, refers to lines 9 and 10, on page 13, and lines 21 and 22, on page 12. They may be passed over.

The PRESIDING OFFICER. Without objection, the amendment which has been stated will be adopted, and the amendment in lines 9 and 10, on page 13, section 10, will be passed over.

Mr. BEVERIDGE. The amendments in lines 6 and 7 are adopted, and the amendment in lines 9 and 10 is passed over until the Senator from Kansas gets here.

The PRESIDING OFFICER. The Chair so understands.

The next amendment of the Committee on Territories was, in section 12, page 14, line 14, after the word "State," to insert "from public lands of the United States within said State."

Mr. BATE. To what has that amendment relation?

Mr. BEVERIDGE. Merely this: As the bill came from the House it read "the following grant of land is hereby made to said State." So that they might take lands in the new States, or, if there were not enough lands there available, then any other public lands anywhere in the United States. This limits them to "public lands of the United States within said State."

Mr. BATE. Well, I object to that.

Mr. BEVERIDGE. Does the Senator object to that?

Mr. BATE. I do. Let it be passed over.

Mr. BEVERIDGE. May I ask the Senator why he objects to that amendment? If the Senator objects to it I shall probably ask for a vote on it.

Mr. BATE. Not now, I hope.

Mr. BEVERIDGE. I do not know why I should not. That is surely a plain matter. We do not want to give a grant of land for educational or any other purposes to the proposed State from the public lands belonging to the United States outside of the State.

Mr. BATE. I infer the Senator does not want to insist upon propositions being acted upon at this time which are contested, when he says he only wants to perfect the bill.

Mr. BEVERIDGE. That is true, but what is the objection to this?

Mr. BATE. I think if there is any objection to any of these amendments they ought to be passed over. That is the usual course.

Mr. BEVERIDGE. Certainly. But will not the Senator state the objection to this amendment? It is purely a formal matter, confining the selection to lands within the State.

Mr. BATE. This amendment might lead to a debate which would probably last for some time.

Mr. BEVERIDGE. I can not imagine how it can lead to debate.

Mr. BATE. I think we had better pass over such amendments as there may be objection to.

Mr. BEVERIDGE. I am willing to let them be passed over in deference to the wishes of the Senator from Tennessee, although I wish to state that this particular amendment, of all the amendments in this bill, is one which I should think there would be no possible objection to from any source, for the reason that it confines the grant of public lands to the lands belonging to the United States within the State, whereas if these words are not put in the lands might be taken from any public land of the United States in any portion of the Republic. However, the amendment may be passed over if the Senator so desires.

Mr. BATE. I prefer that it should go over.

The PRESIDING OFFICER. The amendment will be passed over.

The next amendment of the Committee on Territories was, on page 14, section 12, line 19, before the word "hundred," to strike out "two" and insert "one;" so as to read:

For the benefit of the Agricultural and Mechanical College, 150,000 acres.

The amendment was agreed to.

The next amendment was, in the same section, page 14, line 22, after the word "hundred," to strike out "and fifty;" so as to read:

For the benefit of normal schools, 300,000 acres.

The amendment was agreed to.

Mr. BEVERIDGE. I ask unanimous consent for the reconsideration of the vote by which the last two amendments have been agreed to, for the reason that the Senator from Kansas has an amendment which he wishes to offer at this point. I should like that amendment passed over for the present.

The PRESIDING OFFICER. Without objection, the vote by which the last two amendments were agreed to will be reconsidered.

Mr. BEVERIDGE. And that the last two amendments which have been stated on lines 19 and 22, on page 14, section 12, may be passed over for the present.

The PRESIDING OFFICER. That order will be made.

The next amendment of the Committee on Territories was, to strike out section 13, as follows:

SEC. 13. That any restrictions upon the alienation of allotted lands in Oklahoma and the Indian Territory, except so far as such restrictions apply to the homestead of the allottees and to the full-blood Indians, shall cease upon the admission of such State into the Union; but nothing in this act shall be so construed as to affect the rights of allottees under any existing treaties or agreements relating to the taxation of allotted lands.

The amendment was agreed to.

Mr. NELSON. In section 14, on page 15, line 13, after the word "held," I move to insert the words "one term;" and in the same line, after the name "Muscogee," to insert "and one term at Ardmore, alternately, each year."

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. In section 14, page 15, line 13, after the word "held," it is proposed to insert "one term;" and in the same line, after the name "Muscogee," to insert "and one term at Ardmore, alternately, each year;" so as to read:

The circuit and district courts for the eastern district shall be held one term at Muscogee and one term at Ardmore, alternately, each year.

Mr. BEVERIDGE. I accept that amendment, Mr. President.

The amendment was agreed to.

The next amendment of the Committee on Territories was, in section 14, page 15, line 14, after the word "held," to insert "one term;" in the same line, after the name "Guthrie," to in-

sert "and one term at Oklahoma City, alternately, each year;" and in line 21, after the word "keep," to strike out "their offices in the cities where the court is held" and insert "his office at Muskogee and Guthrie, respectively, for the time being;" so as to read:

And the circuit and district courts for the western district shall be held one term at Guthrie and one term at Oklahoma City, alternately, each year, for the time being. And the said districts shall, for judicial purposes, until otherwise provided, be attached to the eighth judicial circuit. There shall be appointed for each of said districts one district judge, one United States attorney, and one United States marshal. There shall be appointed a clerk for each of said districts, who shall keep his office at Muskogee and Guthrie, respectively, for the time being.

The amendment was agreed to.

The next amendment was, in section 16, page 17, line 18, after the word "Territories," to strike out "of" and insert "or;" so as to read:

And that from all judgments and decrees of the supreme courts of said Territories or the United States courts for said Territories in any case arising within the limits of said State prior to admission the parties to such judgments or decrees shall have the same right to prosecute appeals and writs of error to the Supreme Court of the United States or to the circuit court of appeals for the eighth circuit as they shall have had by law prior to the admission of said State into the Union.

The amendment was agreed to.

The next amendment was, in section 18, page 19, line 14, after the word "and," to strike out "shall" and insert "may;" in line 15, before the word "Indian," to strike out "and Kaw;" in the same line, after the word "Indian," to strike out "reservations" and insert "reservation;" at the beginning of line 16, to insert "or constitute the same a separate county;" and in line 17, after the word "county," to strike out "seats" and insert "seat;" so as to read:

That the constitutional convention may by ordinance provide for the election of officers for a full State government, including members of the legislature and five Representatives to Congress, and may attach the Osage Indian Reservation to counties contiguous or constitute the same a separate county and designate the county seat thereof, and shall provide rules and regulations and define the manner of conducting the first election for officers in said counties.

The amendment was agreed to.

The next amendment was, in section 20, page 20, line 24, after the word "delegates," to strike out "seventy" and insert "seventy-six;" and on page 21, line 1, after the word "and," to strike out "forty" and insert "forty-four;" so as to read:

The aforesaid convention shall consist of 110 delegates, 66 of which delegates shall be elected to said convention by the people of the Territory of New Mexico and 44 by the people of the Territory of Arizona.

The amendment was agreed to.

The next amendment was, in section 21, page 25, line 13, after the word "servitude" to strike out:

Or on account of any other conditions or qualifications save and except on account of illiteracy, minority, sex, conviction of felony, mental condition, or residence: *Provided, however,* That any such restrictions shall be made uniform and applicable alike to all citizens

And insert:

and that ability to read, write, and speak the English language sufficiently well to conduct the duties of the office without the aid of an interpreter shall be a necessary qualification for all State officers.

So as to read:

Fifth. That said State shall never enact any law restricting or abridging the right of suffrage on account of race, color, or previous condition of servitude, and that ability to read, write, and speak the English language sufficiently well to conduct the duties of the office without the aid of an interpreter shall be a necessary qualification for all State officers.

Mr. BATE. I suggest that that amendment be passed over. I do not know that I have any objection to it, but there may be some objection on the part of other Senators who are not now present.

The PRESIDING OFFICER. The amendment, at the request of the Senator from Tennessee, will be passed over.

Mr. BEVERIDGE. What was the request of the Senator?

Mr. BATE. That the amendment just stated be passed over.

Mr. BEVERIDGE. What portion of it?

Mr. BATE. The portion just read, on page 25.

Mr. BEVERIDGE. The portion in italics or the portion stricken out?

Mr. BATE. The portion stricken out. Let it be passed over.

Mr. BEVERIDGE. I will say to the Senator that the portion stricken out is the same provision that we struck out in that part of the bill concerning Oklahoma and the Indian Territory—the provision in regard to sex, and so forth.

Mr. BATE. I understand that.

Mr. BEVERIDGE. And the Senator certainly agrees to that, as he agreed to it in the other case.

Mr. BATE. The ability to read and write the English language is sufficient. I have no objection to the amendment personally.

Mr. BEVERIDGE. I do not think anybody else has any objection to it. I hope the Senator will not insist on his objection.

Mr. BATE. Very well.

Mr. BEVERIDGE. I am sure there is no objection to it.

The PRESIDING OFFICER. The question is on the adoption of the amendment.

The amendment was agreed to.

The next amendment of the Committee on Territories was, in section 21, page 26, line 2, after the word "by," to strike out "a majority vote of;" so as to read:

Sixth. That the capital of said State shall temporarily be at the city of Santa Fe, in the present Territory of New Mexico, and shall not be changed therefrom previous to A. D. 1910, but the location of said capital may, after said year, be permanently fixed by the electors of said State, voting at an election to be provided for by the legislature.

The amendment was agreed to.

The next amendment was, in section 22, page 26, line 18, after the word "any," to strike out "three" and insert "four;" so as to read:

The returns of said election shall be made by the election officers direct to the secretary of the Territory of New Mexico at Santa Fe, who, with the governors and chief justices of said Territories, or any four of them, shall meet at said city of Santa Fe on the third Monday after said election and shall canvass the same.

The amendment was agreed to.

The next amendment was, in section 29, page 30, line 23, after the word "purposes," to strike out "shall be" and insert "may be appraised and;" and in line 25, after the word "the," to strike out "interest of" and insert "income from;" so as to read:

SEC. 29. That all lands herein granted for educational purposes may be appraised and disposed of only at public sale, the proceeds to constitute a permanent school fund, the income from which only shall be expended in the support of said schools.

The amendment was agreed to.

The next amendment was, in section 30, page 31, line 19, after the word "land," to insert "from public lands of the United States within said State;" so as to read:

That in lieu of the grant of land for purposes of internal improvement made to new States by the eighth section of the act of September 4, 1841, which section is hereby repealed as to the proposed State, and in lieu of any claim or demand by the said State under the act of September 28, 1850, and section 2479 of the Revised Statutes, making a grant of swamp and overflowed lands to certain States, which grant it is hereby declared is not extended to the said State, and in lieu of any grant of saline lands to said State, save as heretofore made, the following grants of land from public lands of the United States within said State are hereby made, to wit: etc.

The amendment was agreed to.

Mr. NELSON. In section 30, on page 31, at the beginning of line 24, I move to strike out "deaf, dumb, and blind asylums," and insert in lieu thereof "schools for the deaf and the blind." That is the technical name.

Mr. BEVERIDGE. The Senator proposes to give the technical name to the schools?

Mr. NELSON. The amendment came before the committee, and was agreed to.

Mr. BEVERIDGE. Yes; and it is accepted.

Mr. NELSON. It inserts in the bill the correct name of the institutions.

The PRESIDING OFFICER. The Chair would ask the Senator from Minnesota whether the word "school" in his amendment should be singular or plural?

Mr. NELSON. I think it should be in the plural—"schools."

Mr. BEVERIDGE. I beg pardon; I did not hear the suggestion of the Chair, as my attention was diverted for a moment.

The PRESIDING OFFICER. The Chair asked the Senator from Minnesota whether the amendment which he proposed should read "school" or "schools," and the Senator from Minnesota says it should be "schools"—the plural.

Mr. ALLISON. There is no reference to the word "dumb" in the Senator's amendment. He seems to have left that out.

Mr. BEVERIDGE. I understand that the Senator's amendment gives the technical name of the existing institutions, and that the intent of the amendment of the Senator from Minnesota is, instead of using the general language used in the House bill, to insert the actual technical name of the existing schools for which this appropriation is intended.

Mr. BATE. It seems to me it is better that we use the language at present in the bill, because that is the general expression, and no doubt it exactly describes the institutions. I do not care about it, however.

Mr. BEVERIDGE. If there is no objection, so far as I can, speaking for the committee, I accept the amendment. It is a specific appropriation to these schools, and I see no objection to the technical name being used.

Mr. BATE. I do not object to it, but I suggest that the language of the House bill is better.

Mr. BEVERIDGE. I understand the Senator from Minne-



sota to say that the language proposed in his amendment is the technical name of the institutions for which this land is to be granted.

Mr. NELSON. If the chairman of the committee will allow me, the amendment is offered for the purpose of correcting the name of the schools.

Mr. BEVERIDGE. I so understand.

Mr. BATE. I can not hear the Senator at this distance. What is the Senator's amendment?

Mr. NELSON. It is in line 24, on page 31. The bill proposes to give 200,000 acres of land for "deaf, dumb, and blind asylums." That is not the correct name. We were informed by people from the Territory that the correct name is "schools for the deaf and blind." I offered the amendment in order to give the institutions their proper name. That is all.

Mr. BEVERIDGE. The amendment is accepted.

Mr. BATE. Very well.

\* \* \* a rose  
By any other name would smell as sweet."

Mr. BEVERIDGE. That is exactly the whole case, and especially if it is the correct name it would smell as sweet.

The amendment was agreed to.

The PRESIDING OFFICER. The next committee amendment will be stated.

The SECRETARY. In section 32, after line 20, it is proposed to insert:

There is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of \$5,000,000 for the use and benefit of the common schools of said State. Said appropriation shall be paid by the Treasurer of the United States at such time and to such person or persons as may be authorized by said State to receive the same under laws to be enacted by said State, and until said State shall enact such laws said appropriation shall not be paid, but said State shall be allowed—

Mr. BEVERIDGE. Mr. President, my attention was diverted for a moment. I should like to know what the Secretary is reading.

The PRESIDING OFFICER. The amendment offered by the Senator from Minnesota [Mr. NELSON] was adopted, and the Secretary is reading the next amendment proposed by the committee.

Mr. BEVERIDGE. From what place in the bill is the Secretary reading?

The PRESIDING OFFICER. The amendment on page 32, after line 20.

Mr. BATE. In the amendment offered by the Senator from Minnesota [Mr. NELSON], which was just agreed to, it seems that the word "dumb" is entirely left out. In the amendment he proposes the provision will apply only to the deaf and blind schools, and the dumb will be left out. I think we ought to retain the original language, for by the amendment of the Senator from Minnesota the dumb are not provided for at all. The technical name for the institutions, as I understand, is "the deaf and blind schools," but I am sure Senators do not want to leave the dumb out.

Mr. BEVERIDGE. Of course if that would be the effect of the amendment it should not be agreed to, but I understand from the Senator from Minnesota that the object of his amendment is to give the specific and, if you might use the term, the "technical" name of the existing schools, instead of using vague phraseology descriptive of those schools. Here is an appropriation of land to definite institutions. My understanding is that it is the purpose of the Senator from Minnesota in his amendment to designate those existing institutions by name, instead of leaving it to descriptive language. It is upon that understanding that the amendment has been accepted.

Mr. BATE. I would not object, except that it does not provide for the dumb at all.

Mr. BEVERIDGE. I believe that the dumb go to these schools. You might call them "agency schools."

Mr. BATE. That may be so, but it seems to me the word "dumb" ought to be in there to do justice to those unfortunates.

Mr. BEVERIDGE. They did not use the word "dumb" in naming the schools.

Mr. NELSON. As the word used was "schools"—in the plural—I think there is no harm in inserting the word "dumb," as the Senator from Tennessee [Mr. BATE] suggests.

Mr. BEVERIDGE. I think if you are going to use descriptive language, instead of the actual name, then you had better leave it in descriptive language. If you attempt to use the specific name for an existing institution, then you must use the correct language. If you attempt to use the correct name and then put in some descriptive language, too, you accomplish neither the purpose of correct descriptive language nor do you give the correct name to the schools. It should be left as it

was in the House bill or else it should be changed according to the first amendment of the Senator from Minnesota. The mongrel suggestion of using the name and then putting in descriptive language defeats both purposes. I do not think it is a matter of very great importance in either event, but let the descriptive language stand as in the House bill or else let the amendment of the Senator from Minnesota stand, which correctly, as I understand it, names the schools.

Mr. BATE. I think the language of the House bill very likely covers the case, and so I suggest to the Senator from Minnesota that he withdraw his amendment, unless he is very tenacious about it, and let the original language stand.

Mr. BEVERIDGE. I have no objection whatever, but let us do one of the two.

Mr. NELSON. I would suggest, Mr. President, if the Senator from Tennessee [Mr. BATE] will allow me, that we let the amendment stand, so that when the bill goes into conference we may correct it if there is any error. I think it is well to make the amendment, and I think there is no harm in putting in the word "dumb." If we agree to an amendment to that paragraph of the bill, when it goes into conference we can correct it.

Mr. BEVERIDGE. Very well.

Mr. BATE. Then let the Senator from Minnesota move to reconsider so as to put in the word "dumb."

Mr. BEVERIDGE. No; the Senator from Minnesota [Mr. NELSON] incorporates in his amendment the word the Senator from Tennessee [Mr. BATE] suggests; and because we can take care of the matter perfectly well in conference I agree to it.

Mr. BATE. I do not know about the bill ever getting to a conference committee.

The PRESIDING OFFICER. The Secretary will state the next amendment.

The next amendment of the Committee on Territories was, in section 31, after line 20, on page 32, to insert:

There is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of \$5,000,000 for the use and benefit of the common schools of said State. Said appropriation shall be paid by the Treasurer of the United States at such time and to such person or persons as may be authorized by said State to receive the same under laws to be enacted by said State, and until said State shall enact such laws said appropriation shall not be paid, but said State shall be allowed interest thereon at the rate of 3 per cent per annum, which shall be paid to said State for the use and benefit of its public schools. Said appropriation of \$5,000,000 shall be held inviolate and invested by said State, in trust, for the use and benefit of said schools, and the interest thereon shall be paid quarterly and used exclusively in the support and maintenance of said schools.

Mr. BATE. Let this amendment go over.

Mr. BEVERIDGE. Does the Senator object to it?

Mr. BATE. Yes, sir.

Mr. BEVERIDGE. It may be passed over on the objection of the Senator from Tennessee.

The PRESIDING OFFICER. The amendment will be passed over. The Secretary will state the next amendment.

Mr. GORMAN. Before it is passed over, I should like to ask the Senator in charge of this bill whether that is not an extraordinary provision? I refer to the matter from line 4, on page 33, to the word "schools," in line 6, which provides that until the State shall have made provision for public schools and designated a public officer to receive this money, the Government of the United States shall pay—

Mr. BEVERIDGE. I do not see where the Senator is reading.

Mr. GORMAN. On page 33, beginning, in line 4, with the words:

But said State shall be allowed interest thereon—

That is, on the \$5,000,000—

at the rate of 3 per cent per annum, which shall be paid to said State for the use and benefit of its public schools.

That is, to pay the State interest at 3 per cent prior to the time when they may make provision for receiving the money. What reason is there for this provision?

Mr. BEVERIDGE. The reason is the exigency for schools.

Mr. GORMAN. How is that?

Mr. BEVERIDGE. The exigencies for their schools. That is the reason—the necessity for some money to run the existing schools and establish new ones. In fact, the reason for this whole provision is the inadequacy of the land grants there for educational purposes, on account of the fact that the land is of no value comparatively, and the income from it is practically nothing. That is the basis of this whole thing as well as of this provision. However, the amendment goes over at the suggestion of the Senator from Tennessee.

Mr. BATE. Yes, I suggested that course.

Mr. GORMAN. Not being very familiar with it, I merely wanted to ascertain what reason there could be for the provision.

Mr. BEVERIDGE. That is the reason.

Mr. GORMAN. I understand there may be and is strong reason why the Government should appropriate five millions in money in aid of public schools in this State, to be paid, beginning with the operation of the machinery of the State, by the designation of an officer to receive it. But I see no reason whatever why, if the State shall delay one year or two years in making provision for its public schools, that the Government should bind itself to pay 3 per cent interest upon a donation. It seems to me that that is extraordinary, and I doubt very much whether any such provision is to be found in any other statute. If in the judgment of the committee and of Senators who have examined this question, \$5,000,000 is not sufficient to aid the State in maintaining the public schools, then you can increase the amount, probably wisely; but to permit a State to take advantage of a provision of law and delay the organization of its schools and the appointment of an officer to receive the money, and because of that delay the Government shall pay 3 per cent interest, seems to me an extraordinary provision.

Mr. BEVERIDGE. The Senator will clearly see that that is on the assumption that the State is going to delay purposely the time when it shall get control of the fund, and not only delay it, but delay it for an unworthy motive. Of course we can not attribute to the State any such action or motive.

Mr. GORMAN. No—

Mr. BEVERIDGE. However—

Mr. GORMAN. But the incentive would be very much greater to the State to organize its schools if we were to strike out the provision in regard to the interest. Then they would provide the machinery and designate the officer at the earliest possible moment. It seems to me a bad move for the Government to bind itself to pay interest upon a donation. You may increase the donation if you desire it.

Mr. BEVERIDGE. It may be a question as to which method is the wiser—whether we shall increase the appropriation or whether we shall make the provision that is proposed here. It is a question which we can discuss either now or at any other time. In the opinion of the committee this is the wiser method.

Mr. GORMAN. It may not be in order at this time, but for the purpose of giving notice, I move to amend the pending amendment by striking out all of lines 4 and 5 down to the word "schools," in line 6, on page 33.

Mr. BEVERIDGE. Is it the purpose of the Senator—

Mr. GORMAN. My purpose is merely to have the amendment pending. And in line 9, after the word "schools," I move to strike out all down to the end of the section.

Mr. BATE. What page is that—33 or 35?

Mr. GORMAN. Thirty-three.

Mr. BEVERIDGE. Is it in line 6, after "schools," to strike out down to the end of the section?

Mr. GORMAN. No, sir; strike out the words beginning in line 4—

But said State shall be allowed interest thereon at the rate of 3 per cent per annum, which shall be paid to said State for the use and benefit of its public schools.

Mr. BEVERIDGE. Yes.

Mr. GORMAN. Then in line 9 strike out:

And the interest thereon shall be paid quarterly and used exclusively in the support and maintenance of said schools.

Mr. BEVERIDGE. I call the Senator's attention to the fact that the last amendment is an entirely different thing. The Senator is not confounding that provision for an income with the payment of interest?

Mr. GORMAN. I am not.

Mr. BEVERIDGE. Very well.

Mr. GORMAN. I read it hastily. I intend to strike out the provision for the payment of interest upon the donation of \$5,000,000. The amendment would then make a donation of \$5,000,000, to be paid whenever the State shall have perfected its school machinery.

Mr. TELLER. If there is any community in the world that needs an immediate school fund and an immediate school system it is the country down there. It is said there are a hundred thousand people in the Indian section of that country who have been for years absolutely without any school facilities. If that is true, Mr. President, we ought not to pay any interest on this money, because we ought to hold the money where it would be an inducement to those people to commence their system immediately.

Mr. BEVERIDGE. This all goes over, on the objection of the Senator from Tennessee.

Mr. TELLER. I did not know that. I do not care to debate it now, then.

Mr. BEVERIDGE. I thought the Senator was not aware of that fact.

Mr. TELLER. No; I was not.

The PRESIDING OFFICER. The next amendment of the committee will be stated.

The next amendment of the Committee on Territories was, on page 38, line 16, before the word "thousand," to insert the words "and fifty;" so as to read:

SEC. 37. That the sum of \$150,000, or so much thereof as may be necessary, etc.

The amendment was agreed to.

The next amendment was, on page 39, line 7, before the word "thousand," to insert "and fifty;" so as to read:

Provided, That any expense incurred in excess of said sum of \$150,000 shall not be paid by said State."

The amendment was agreed to.

Mr. BEVERIDGE. The Senator from Ohio has a suggestion to make.

Mr. FORAKER. Mr. President, I was unavoidably absent from the Chamber when the amendment in line 8, on page 4, was acted upon. I would ask leave that it be reconsidered.

Mr. BEVERIDGE. That is agreeable.

The PRESIDING OFFICER. Unanimous consent is asked for the reconsideration of the vote by which the amendment mentioned by the Senator from Ohio was agreed to. Is there objection? The Chair hears none.

Mr. FORAKER. I object to the amendment.

Mr. BEVERIDGE. The Senator asks that the vote by which it was agreed to be reconsidered, so that it may be considered hereafter with the other contested amendments?

Mr. FORAKER. Yes.

Mr. BEVERIDGE. There is no objection to that. The Senator from Kansas [Mr. LONG] has an amendment to offer.

Mr. LONG. On page 12, section 9, I suggest to the Senator from Indiana the restoration of the words stricken out by the committee in lines 21 and 22, with the insertion after the word "purchase" of the words "at the highest bid."

Mr. BEVERIDGE. The amendment suggested by the Senator from Kansas is accepted.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. GORMAN. Let it be read, so that we may know what it is.

Mr. BEVERIDGE. Read the language as it will read if amended.

The SECRETARY. The committee amendment was, on page 12, lines 21 and 22, to strike out the following words:

Preference right to purchase being given to the lessee at the time of such sale.

It is proposed to reinstate those words and to insert after the word "purchase" the words "at the highest bid."

Mr. LONG. Read the amendment as it will read if agreed to. The SECRETARY. So that if adopted the clause will read:

Under such rules and regulations as the legislature of the said State may prescribe, preference right to purchase at the highest bid being given to the lessee at the time of such sale.

Mr. BEVERIDGE. That is very good.

The PRESIDING OFFICER. In the absence of objection, the amendment is agreed to.

Mr. LONG. On page 13, lines 9 and 10, there should be the restoration of similar words, with the insertion of the words "at the highest bid" after the word "purchase."

Mr. BEVERIDGE. That is precisely the same amendment.

Mr. LONG. Precisely the same.

Mr. BEVERIDGE. It is accepted, Mr. President.

Mr. FORAKER. Are those the only two places where the phrase appears?

Mr. BEVERIDGE. Yes.

Mr. BERRY. I should like to ask where, if it is going to the highest bidder, there is any preference given to the lessee?

Mr. BEVERIDGE. It is only in case there are two bids which are equal, in which event the lessee shall have the preference.

Mr. BERRY. It does not say that.

Mr. BEVERIDGE. That is its operation.

Mr. BERRY. The original proposition was to give the lessee the preference, which I think is right, and the proper thing to do. Now you go and qualify it and say that it shall go to the highest bidder. I can not see any preference to the lessee in that.

Mr. BEVERIDGE. If you merely reinsert the words stricken out, without putting in the amendment of the Senator from Kansas, it becomes meaningless in view of the language which the committee inserted and to which, of course, the Senator will agree, which occurs in lines 18 and 19, where the committee inserted "at public sale."



Mr. BERRY. But the House bill did not provide for any public sale.

Mr. BEVERIDGE. No; it did not, and the committee thought there ought to be a public sale, and the House did not provide for a sale of 160 acres or less and the Senate committee thought there ought to be 160 acres or less. The reasons for it are so obvious on the face of the bill that I am sure the Senator—

Mr. BERRY. It seems to me it simply deprives the lessee of any preference whatever to say that it shall be at public sale and then to the highest bidder. You may as well strike out all reference to the lessee.

Mr. BEVERIDGE. We did strike it out, and the Senator from Kansas points out that in the case of two or three bids being equal the lessee should have, as he ought to have, the prior right of purchase.

Mr. NEWLANDS. Mr. President, I should like to ask the Senator from Indiana whether there is any provision in this bill guarding against the concentration of lands in large tracts and single ownership in the operation of these sales?

Mr. BEVERIDGE. Yes, sir; precisely in the language of the committee amendment which we have just adopted.

Mr. NEWLANDS. I understand the only provision is that the lands shall be sold at public sale in 160-acre tracts?

Mr. BEVERIDGE. That is right—or less.

Mr. NEWLANDS. What is to prevent one man from purchasing a number of 160-acre tracts and then concentrating the ownership in a single hand?

Mr. BEVERIDGE. Nothing in the world except a desire not to part from his money needlessly. There are a large number of lessees on this land, and a man wanting to buy fifty or a hundred thousand acres of that land would have to bid thirty or forty or fifty dollars an acre against the lessees who are on the land, and of course it would not be done; whereas, on the contrary, if the lessee has two quarter sections, he may buy those. That is the reason why we did not confine it to a hundred and sixty acres. It would be a manifest injustice to a farmer there who wanted 320 acres, and had already leased it, and was living on it, to take away half of his farm from him. So the sheer operation of common sense itself prevents under this bill, the land being occupied by farmers as lessees, the danger of which the Senator speaks and which was before the committee.

Mr. NEWLANDS. Are we to understand that all these lands are now under lease?

Mr. BEVERIDGE. No; not all of them.

Mr. NEWLANDS. Can the Senator state what proportion are?

Mr. BEVERIDGE. No; I can not state the proportion. Nobody can state the proportion without very careful scrutiny. Some portion of it in Beaver County, no doubt, is not under lease.

Mr. NEWLANDS. How many acres in all are involved in this provision?

Mr. BEVERIDGE. I can not say. I have stated the conditions. I can not give the Senator the figures.

Mr. STEWART. I should like to inquire whether there is any provision with respect to public lands where an irrigation system is contemplated, so as not to interfere with it?

Mr. BEVERIDGE. No irrigation is used in Oklahoma.

Mr. STEWART. This applies to Oklahoma?

Mr. BEVERIDGE. Yes, sir.

Mr. NEWLANDS. It does not seem to me that this section is sufficiently guarded against land monopoly. We find that throughout the West, practically the arid West, where it is often desirable to concentrate lands in large holdings for stock-raising purposes, efforts are made to monopolize land through the United States land laws, sometimes through the evasion of the laws, and sometimes through the laxity of the laws themselves.

Now, to my own State, Nevada, Congress granted 2,000,000 acres for school purposes. At the time the grant was made the land was regarded as almost worthless. The State was a mining State. Almost everybody in the State was in a fever of speculation regarding the mines, and whilst there were a few who were engaged in agriculture, they were engaged in it in almost a speculative way—in the cultivation of soil in the valleys near the mining camps, the mining camps affording a splendid market for their products. So there was little attention paid to the methods devised for selling the school lands.

The State passed a law for their sale. The State wished to realize a sum for a school fund, and it fixed the price of lands at \$1.25 an acre and provided for their purchase at 20 per cent cash and the rest in deferred payments at 6 per cent. In this

way a very handsome fund was secured for the schools and the university of that State.

But as the State gradually developed from a mining State into an agricultural and an industrial State, as its development became more proportionate and harmonious, we awoke to the fact that without criminal intent upon the part of anybody, either upon the part of the legislature of the State or upon the part of the men who purchased under those laws, the lands of that State had been quite extensively concentrated in single ownership at a time when they were considered almost valueless. And these lands were located on the banks of rivers—the four great rivers of that State, rivers which have their source in the mountains and flow down through the desert into great lakes or sink in the desert.

Now, these lands were acquired for stock-raising purposes, and stock raising in that region involved the utilization of very large areas of land—large areas of hay land along the rivers, or along the river bottoms, which in themselves constitute the base of more extended operations in the desert lands, where there are, during the winter particularly, various grasses that grow which nourish animals.

The result is that on some of these rivers for long distances the entire river bank has been controlled in this way, and it is almost impossible to commence any project of magnitude for the irrigation of desert lands, because the ownership of these lands, lands which had been public, concentrated in these cattle owners, constitute a constant obstacle to such development. We find that this condition now presents an obstacle on the Humboldt River in that State, a river three or four hundred miles long, stretching from the eastern part of the State to the western part of the State, and sinking in Humboldt Lake.

There, in a length, I think, of about a hundred miles, there are a few proprietors—many of them nonresidents of the State—who conduct these lands as great cattle ranches, on which they raise and store hay for the purpose of feeding the cattle during the period of storm or during the period when it is impossible to range on the desert, and they employ but few men to look after the cattle. In that way extensive areas of land along the river have been locked up, and the State has not received the equal and harmonious and proportionate development it should have.

Now, here is a case where, without any intention upon the part either of Congress or of the local legislature or of the people themselves, this very unfortunate condition of things has been evolved, and it does seem to me that in the creation of a new State we should see that stringent provisions regarding the sale of these lands are made in the interest of the actual home seeker—the man who goes out there to make a home and who wishes to get only enough land to support a family.

The ability to support a family should be the test of the grant, the test of the number of acres that are to go to a single purchaser, and no purchaser should be permitted to acquire more land than is necessary to support a family. The quantity of land may vary. In our humid region it has been thought that 160 acres of land is sufficient to support a family. In the arid region, without irrigation, 160 acres can not support a family. It may be necessary to get a thousand, two thousand, three thousand acres, and even larger tracts. But under irrigation, particularly in this southern country of New Mexico and Arizona, 20 acres will support a family. In other cases 40 acres will support a family, according to the nature of the intensified production of the valley in which these locations are made, the production varying according to the richness of the soil or the warmth of the climate.

Now, it does seem to me that in framing this bill we ought to take notice of the scientific evolution of that entire region, with a view to protecting it absolutely against land monopoly. We have not as yet realized in this country the evils of land monopoly, simply because we have only 80,000,000 people in this country, and we have a country capable of supporting four or five hundred million people. We have been very improvident in the grants of our lands. We have been very improvident as to the limitations imposed upon entry, and the result to-day is we find in that region, through the operation of the United States land laws, as high as a million acres in the possession of a single firm.

Now, Congress did not contemplate that. The legislatures of the various States in acting upon school grants and swamp-land grants did not contemplate that. Yet that is the result, and unless we provide against this thing now we may expect in the future the most serious social disturbance. We all know that has been the cause of the agitation in Ireland against England's supremacy. The population grew so that the soil was scarcely able to support it, and certainly the land was not sufficient to

pay both the landlord and the lessee, and the result has been a continuous agitation in that country, lasting for many years and resulting in violence and revolutions, all over the question whether these large holdings of land should be divided up and a system of peasant proprietorship substituted for it.

We all know that in France prior to the great French Revolution the concentration of land was such that one-third of the land of France was in the hands of the nobility, one-third in the hands of the church, and only one-third in the hands of the common people, and their taxes were so adjusted that the entire burden was imposed upon the poorer third in the hands of the common people. It was this abuse which led to that bloody revolution, through which alone a peasant proprietorship was evolved, which has cured almost all the economic ills of that country and has secured the development of a large and prosperous population. In the Philippine Islands we had similar difficulties.

Mr. LONG. Will the Senator yield to me for a moment?

Mr. NEWLANDS. Certainly.

Mr. LONG. The Senator is perfectly familiar with the conditions which exist in relation to the lands in Nevada. I should like to know if he is familiar with the conditions affecting the lands described in sections 9 and 10 of the bill as they exist in Oklahoma?

Mr. NEWLANDS. No; I am not. That was the reason why I put my questions to the chairman of the committee.

Mr. LONG. Those lands are in the main already occupied. They are leased by the Territory. They are occupied by farmers. They are in different portions of the Territory of Oklahoma. They are not vacant lands, as a rule. They are leased in 160-acre tracts. The dangers the Senator feels are imminent in Nevada and in the other places to which he refers certainly do not exist in Oklahoma. In other words, the amendment of the committee providing that the lands shall be sold at public sale in 160-acre tracts or less would certainly protect the State of Oklahoma in securing as large a return as is possible for the lands. The lands being occupied, does not the Senator think it is right and just that the occupants of the land should have the preference right to purchase at the time of the sale?

Mr. NEWLANDS. I will answer yes, provided they are not allowed to purchase too much. I would not object to the purchase by any occupant of 160 acres, but I should object to the purchase of a thousand acres.

Mr. LONG. Except in the western portion of the Territory of Oklahoma, where the tracts are somewhat larger, in practically the entire Territory the lessees hold but 160 acres.

Mr. BEVERIDGE. In all except Beaver County.

Mr. NEWLANDS. But there is nothing to prevent a lessee upon a tract of 160 acres from bidding at this auction for 1, 2, 3, 4, 5, 6, 10 other 160-acre tracts, and if he bids highest there is nothing to prevent him from acquiring all of them.

Mr. BEVERIDGE. If the Senator will pardon me, does he not see that if the man bids he would have to bid against his neighboring lessees?

Mr. NEWLANDS. Yes.

Mr. BEVERIDGE. Of course, in the enactment of all human legislation we have got to take into consideration that the people have the same ordinary sense we are endowed with here.

Mr. NEWLANDS. He has to bid against his neighboring lessees, certainly.

Mr. LONG. And has only a preference right.

Mr. NEWLANDS. He may outbid them. I should regard it as a misfortune if the school fund got a higher price as the result of this policy of concentrating the land. From the economic standpoint the State would be more injured by the concentration of the land than it would be benefited by an increase in the money received from sales.

Now, the Senator states that most of these lands are under lease. He does not state how large a proportion of them are under lease. The chairman of the committee was unable to state it. We do not know whether one-half or one-fourth or three-fourths are under lease. All that we know is that there is a large area of public land there which is to be turned over to this State for school purposes. Whilst we want, of course, to aid the schools, and whilst we want to give a handsome fund for educational purposes, we do not desire, in order to accomplish one good object, to accomplish a greater evil in the economic development of that State.

Mr. BEVERIDGE. If the Senator will permit me, what does the Senator suggest?

Mr. NEWLANDS. I shall have to take time to consider that. I will state that in the framing of the irrigation law we were very solicitous regarding this subject, and we not only insisted in that law that no tract greater than 160 acres could be acquired by any single settler, but we also provided that he must

live upon the land or in its immediate vicinity. We provided in every case for the home seeker, and absolutely insured home seeking and home building under that law.

Mr. LONG. Will the Senator yield to me for a moment?

Mr. NEWLANDS. Certainly.

Mr. LONG. Would the Senator provide that only the occupant on the land should have the right to purchase it in these sections?

Mr. NEWLANDS. No; I would insist, however, that every man who purchased under this law should purchase for the purpose of making a home there, and for no other purpose.

Mr. BEVERIDGE. Mr. President, if the Senator will permit me, I shall not interrupt him again.

Mr. NEWLANDS. Certainly.

Mr. BEVERIDGE. I asked the Senator what he would suggest and he said that he would have to take time, although I believe the Senator did not suggest anything when the committee had this measure under considerable and lengthy discussion.

But I call the Senator's attention to the fact that not only is it provided, which the House did not do, that these sales shall be public sales and in 160-acre tracts or less, but that consequent upon that, as I suggested to the Senator a moment ago, any person wanting to have ten, twenty, or thirty thousand acres would have to pay an enormous price for the land, because he would have to bid against the lessees; but, in addition to all those safeguards, all this must be done under such rules and regulations as the legislature of the State may prescribe. Does not the Senator think that this is safeguarded about as completely as the Federal Government should do it, and that we ought to leave the legislature of the State some latitude in fixing the additional safeguards?

Mr. NEWLANDS. My observation and experience are that the legislation of new States is not sufficiently guarded regarding the public domain that is turned over to them. They are improvident simply because they have a large domain and a small population; and they look more to the benefit of the existing population than to the benefit of the incoming population of the future.

Now, we hold these lands in trust, not for the people of these Territories, but we hold the lands in trust for the whole people of the United States, for the unborn million; and just as we would administer it carefully if we maintained the possession and ownership of this public domain we ought to guard the legislation which turns it over to an infant State in such a way as to secure beneficent results in the future.

Mr. LONG. Does not the Senator think that the legislature of Oklahoma is as well qualified to deal with this question as Congress?

Mr. NEWLANDS. I should say not. I should trust more to the great experience in these matters of a body like this than to the judgment of a body brought suddenly into existence, without traditions, without training, without experience.

I attach great value to the experience that is secured in the Congress of the United States by members of the Senate and Members of the House in the debate of all measures relating to the public lands of the country. It is true that our eastern brethren and our brethren from the Middle States are not so familiar with these questions as the people of the West. But they are gradually becoming more familiar every day, and they are beginning to realize that a certain duty devolves upon them of watching this trust carefully and watching its administration with vigilance in order to guard against the evils of concentration and of land monopoly in the future.

I have already given some instances of the evils of land monopoly. We have simply been through recently an experience in the Philippine Islands, 7,000 miles away. We find that the source of the dissatisfaction of the Filipinos with the Government of Spain was the fact that through lax administration large areas of land had been suffered to go into the ownership and control of the church. The revolution against Spain was not so much against cruelty and oppression as it was against an existing land monopoly; and those very men, loyal sons of the church, were ready to take up arms against the Spanish Government and the church upon that issue.

In the Philippine Islands we have been obliged to remedy that. How? By buying back the lands from the church at a cost of \$7,000,000, and we are now instituting there a system of peasant proprietorship as the best method of doing away with the dissatisfaction of the people with their administration of government.

And so it has been in South America and in Central America. The Catholic Church there acquired control of vast areas of land, and that was the cause in a large degree of the dissatisfaction with Spanish rule; and the revolutions there were the revolutions of loyal sons of the church against an economic sys-



tem that was upheld by the Spanish Government. These bloody revolutions finally resulted in the liberty of the people, and what did they do? They took by violence the lands from the church and turned them over to the whole people.

Now, we are apt to minimize these questions and these difficulties simply because, as I said before, we have a vast area of land and we have a small population. And yet we are beginning now in certain Commonwealths in the West to find the evils of the concentration of the ownership of land. They exist in Nevada; they exist in other States in that region, and they constitute a bar to the progress and the development of those States.

I was referring a moment ago to the national irrigation act, in which we guarded at every step against land monopoly. We provided that the land irrigated should be entered in tracts of not less than 40 nor more than 160 acres, the unit of entry to be fixed according to the judgment of the Secretary of the Interior and determined by the capacity of a given number of acres to support a family. Not only that, but we held that the settlers must be home seekers and must reside upon the land for five years before they could obtain title. We did away with the commutation clause of the land laws which exists with reference to other lands and by which a man who has entered a homestead with the understanding that he will live upon the homestead for five years before he gets title can get summary title at the end of fourteen months by the payment of a dollar and a quarter an acre. And why did we do that? Because we found that the men who were desirous of obtaining the control of large areas of land were making use of the homestead act, through their retainers and employees and others, to secure title at the end of a year and a half by the operation of the commutation clause. So solicitous were we to prevent even that limited form of concentration that in the act itself we did away with the commutation clause so far as the land affected by the irrigation law was concerned.

Not only that, but we went further, and we took measures to break up the existing concentration of land in that entire region. How? You say these rights were vested, the title of the land secured absolutely beyond the control of the Government of the United States. We did it in this way: We provided that in the storage of water and in this great work of conducting the water out by high-line ditches, so that it could be brought within the reach of the land belonging to the settlers, the Government could supply water to existing settlements, the purpose of the act being not so much to secure the reclamation and sale of Government lands as to aid as a matter of public policy in the development of the West itself. We realized that existing communities starving for water ought to have their needs supplied first, if necessary. But how did we limit that? Did we provide that the landowners, owning from a thousand to ten thousand and fifteen thousand acres of land, should obtain water from the Government by paying the stipulated price and thus secure water rights and perpetuate their monopoly? Oh, no; we provided that the landowner could get water for only 160 acres under that act.

That was apparently hard upon many landowners who had acquired large ranches in that region in entire good faith; and yet, as a matter of fact, it was no hardship, for the completion of the project and the bringing of this water within the reach of these large areas of land in single ownership gave additional value to the land itself—a value which it had not before—and made it available for settlement. So that a landowner could divide his tract up into 160-acre farms, sell them in good faith to actual settlers, and each settler could secure from the Government a water right for 160 acres; and thus we not only guarded against land monopoly in the future, but we passed a measure which will tend to the gradual amelioration of the existing conditions of land monopoly.

Mr. HEYBURN. Will the Senator from Nevada permit me to state a figure or two in connection with the line of his argument?

Mr. NEWLANDS. Certainly.

Mr. HEYBURN. I find from the census of 1900 that in Nevada the average size of the farms is 1,174.7 acres, while in Oklahoma the average size of the farms is only 251.5 acres; that in Nevada only 8 per cent of the total area of the State is taken up, while in Oklahoma 22.2 per cent is taken up.

Mr. NEWLANDS. I dare say the statistics the Senator gives are correct. It is accounted for by the fact that Oklahoma is largely a humid State and Nevada is an arid State, where the soil can only be cultivated by irrigation, and that means the expenditure of large sums of money in reclamation works.

Mr. BEVERIDGE. I ask that the statehood bill, together with the amendments as made in the Senate, be reprinted.

The PRESIDING OFFICER. The Senator from Indiana

asks for a reprint of the statehood bill. Is there objection? The Chair hears none, and it is so ordered.

Mr. GORMAN. Let us adjourn.

Mr. BEVERIDGE. The Senator from New Jersey [Mr. KEAN], I believe, wishes to have an executive session.

Mr. KEAN. I should like to move an executive session.

Mr. GORMAN. It is 5 o'clock.

Mr. KEAN. It will take only a minute. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After seven minutes spent in executive session the doors were reopened; and (at 5 o'clock and 7 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, January 11, 1905, at 12 o'clock meridian.

## NOMINATIONS.

*Executive nominations received by the Senate January 10, 1905.*

### AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.

David E. Thompson, of Nebraska, now envoy extraordinary and minister plenipotentiary at that place to be ambassador extraordinary and plenipotentiary of the United States to Brazil, to fill an original vacancy.

### AUDITOR OF THE ISLAND OF PORTO RICO.

Thomas W. Hynes, of New York, to be auditor of the island of Porto Rico, to succeed Erastus S. Rockwell, now serving under a temporary commission issued during the recess of the Senate, who has resigned to take effect on the appointment of his successor.

### COLLECTOR OF INTERNAL REVENUE.

Ernest Coldwell, of Tennessee, to be collector of internal revenue for the fifth district of Tennessee, to succeed John E. McCall, nominated to be United States district judge for the western district of Tennessee.

## CONFIRMATIONS.

*Executive nominations confirmed by the Senate January 10, 1905.*

### CONSUL.

Harold L. Lyon, of Minnesota, to be consul of the United States at Chungking, China.

### UNITED STATES ATTORNEY.

Henry M. Hoyt, of California, to be United States attorney for the district of Alaska, and assign him to division No. 2.

### ASSOCIATE JUSTICE OF SUPREME COURT OF NEW MEXICO.

Ira A. Abbott, of Massachusetts, to be associate justice of the supreme court of the Territory of New Mexico.

### MARSHALS.

Clinton D. MacDougal, of New York, to be United States marshal for the northern district of New York.

John B. Robinson, of Pennsylvania, to be United States marshal for the eastern district of Pennsylvania.

### DISTRICT JUDGE.

Robert W. Tayler, of Ohio, to be United States district judge for the northern district of Ohio.

### POSTMASTERS.

#### COLORADO.

Nimrod S. Walpole to be postmaster at Pueblo, in the county of Pueblo and State of Colorado.

#### FLORIDA.

George J. Arnow to be postmaster at Gainesville, in the county of Alachua and State of Florida.

#### GEORGIA.

Clark Grier to be postmaster at Dublin, in the county of Laurens and State of Georgia, in place of Clark Grier.

#### MARYLAND.

William Hall Harris to be postmaster at Baltimore, in the county of Baltimore and State of Maryland.

#### NORTH DAKOTA.

Maggie Fox to be postmaster at Michigan, in the county of Nelson and State of North Dakota.

#### PENNSYLVANIA.

Mary J. Russell to be postmaster at Vilas, in the county of Lycoming and State of Pennsylvania.

Charles S. Shindel to be postmaster at Tamaqua, in the county of Schuylkill and State of Pennsylvania.

## SOUTH CAROLINA.

Joseph H. Abbey to be postmaster at St. George, in the county of Dorchester and State of South Carolina.

Frank C. Cain to be postmaster at St. Matthews, in the county of Orangeburg and State of South Carolina.

James G. Harper to be postmaster at Seneca, in the county of Oconee and State of South Carolina.

## TENNESSEE.

William E. Byers to be postmaster at Tracy City, in the county of Grundy and State of Tennessee.

William T. Smythe to be postmaster at Mountain City, in the county of Johnson and State of Tennessee.

## TEXAS.

Theophilus F. Berner to be postmaster at Henrietta, in the county of Clay and State of Texas.

Joshua Cooke, jr., to be postmaster at Longview, in the county of Gregg and State of Texas.

Kittie L. Edwards to be postmaster at Smithfield, in the county of Bastrop and State of Texas.

Jerra L. Hickson to be postmaster at Gainesville, in the county of Cooke and State of Texas.

Henry Liem to be postmaster at Center, in the county of Shelby and State of Texas.

Adelia C. Pruitt to be postmaster at Lindale, in the county of Smith and State of Texas.

Charles Real to be postmaster at Kerrville, in the county of Kerr and State of Texas.

Andrew J. Reeder to be postmaster at Granger, in the county of Williamson and State of Texas.

L. E. Robbins to be postmaster at Quanah, in the county of Hardeman and State of Texas.

## HOUSE OF REPRESENTATIVES.

TUESDAY, January 10, 1905.

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read and approved.

## ARMY APPROPRIATION BILL.

Mr. HULL, from the Committee on Military Affairs, reported the bill (H. R. 17473) making appropriations for the support of the Army for the fiscal year ending June 30, 1906; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

Mr. FITZGERALD. Mr. Speaker, I reserve all points of order upon the bill.

The SPEAKER. The gentleman from New York reserves all points of order upon the bill.

## INDIAN APPROPRIATION BILL.

Mr. SHERMAN, from the Committee on Indian Affairs, reported the bill (H. R. 17474) making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1906, and for other purposes; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

Mr. FITZGERALD. Mr. Speaker, I reserve all points of order upon the bill.

The SPEAKER. The gentleman from New York reserves all points of order.

## INDIAN CONTRACT SCHOOLS.

Mr. SHERMAN. Mr. Speaker, I desire to present a privileged report on a resolution of inquiry.

The SPEAKER. The gentleman from New York presents the following report, which the Clerk will read.

The Clerk read as follows:

*Resolved*, That the Secretary of the Interior is hereby directed to inform the House of Representatives whether or not any funds of the United States, or the principal or interest of any Indian trust funds or other moneys of any Indian tribe, are being expended or have been authorized to be expended for support of any Indian contract schools other than Government schools; and if any of said funds are being so expended, or the expenditure authorized by his Department, to state for what purpose authorized, the amount thereof, the authority for making such expenditure, and whether or not the consent of the Indians interested has been first secured therefor, covering the period since January 1, 1903.

Mr. SHERMAN. Let the report be read.

The Clerk read as follows:

The Committee on Indian Affairs, to whom was referred House resolution 394, being a resolution of inquiry, beg leave to report same back amended by striking out, in line 3 thereof, the words "funds of the

United States or" and inserting in lieu thereof the word "of;" and as thus amended recommend that the resolution do pass.

The SPEAKER. The question is on agreeing to the amendment.

The question was taken and the amendment was agreed to.

The SPEAKER. The question is on agreeing to the resolution as amended.

The question was taken and the resolution was agreed to.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested:

S. 965. An act for the relief of Pacific Pearl Mullett, administratrix of the estate of the late Alfred B. Mullett;

S. 3718. An act to quitclaim all the interest of the United States of America in and to all lands lying in the District of Columbia and State of Maryland to heirs of John C. Rives, deceased;

S. 2705. An act for the relief of the wandering American-born Indians of Rocky Boy's band, Montana;

S. 3376. An act to authorize the Secretary of the Interior to acquire for the Government, by exchanges of public lands, the ownership of the private lands within certain public parks in the State of California.

The message also announced that the Senate had passed with amendments bill of the following title; in which the concurrence of the House of Representatives was requested:

H. R. 9548. An act for the allowance of certain claims for stores and supplies reported by the Court of Claims under the provisions of the act approved March 3, 1883, and commonly known as the "Bowman Act."

The message also announced that the Senate had passed with amendments bills of the following titles; in which the concurrence of the House of Representatives was requested:

H. R. 2871. An act to incorporate the Mutual Investment Fire Insurance Company of the District of Columbia;

H. R. 2052. An act for the relief of Ramon O. Williams and Joseph A. Springer;

S. 144. An act to provide for the purchase of a site and the erection of a public building thereon at Rawlins, in the State of Wyoming; and

S. 3379. An act to amend section 66 of the act of June 8, 1872, entitled "An act to revise, consolidate, and amend the statutes relating to the Post-Office Department."

## SENATE CONCURRENT RESOLUTION AND BILLS REFERRED.

Under clause 2, Rule XXIV, Senate concurrent resolution and Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 3718. An act to quitclaim all the interest of the United States of America in and to all lands lying in the District of Columbia and State of Maryland to heirs of John C. Rives, deceased—to the Committee on the District of Columbia.

S. 965. An act for the relief of Pacific Pearl Mullett, administratrix of the estate of the late Alfred B. Mullett—to the Committee on Claims.

S. 3376. An act to authorize the Secretary of the Interior to acquire for the Government, by exchanges of public lands, the ownership of the private lands within certain public parks in the State of California—to the Committee on Public Lands.

Senate concurrent resolution 90:

*Resolved by the Senate (the House of Representatives concurring)*, That there be printed and bound in cloth 6,000 copies of the Report on the Development of the Merchant Marine and American Commerce, and of the testimony taken in connection therewith, of which 2,000 copies shall be for the use of the Senate, 3,000 copies for the use of the House of Representatives, and 1,000 copies for the use of the Merchant Marine Commission, of which latter 100 copies shall be bound in half morocco—to the Committee on Printing.

S. 144. An act to provide for the purchase of a site and the erection of a public building thereon at Rawlins, in the State of Wyoming—to the Committee on Public Buildings and Grounds.

S. 3379. An act to amend section 66 of the act of June 8, 1872, entitled "An act to revise, consolidate, and amend the statutes relating to the Post-Office Department"—to the Committee on Public Buildings and Grounds.

S. 2705. An act for the relief of the wandering American-born Indians of Rockyboy's band, Montana—to the Committee on Indian Affairs.

Also the following House bill with Senate amendments:

H. R. 9548. An act for the allowance of certain claims for stores and supplies reported by the Court of Claims under the provisions of the act approved March 3, 1883, and commonly known as the "Bowman Act"—to the Committee on War Claims.